

Volume: XIV
Pages: 245
Exhibits: (See Index)

COMMONWEALTH OF MASSACHUSETTS

NORFOLK, SS.

SUPERIOR COURT DEPARTMENT
OF THE TRIAL COURT

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COMMONWEALTH OF MASSACHUSETTS
vs. Indictment No.
KAREN READ 2282CR00117
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Day 14 - Trial with Jury
Before the Honorable Beverly Cannone

APPEARANCES:

For The Commonwealth:
BY: Adam Lally
Laura McLaughlin
Assistants District Attorney

For Karen Read:
BY: Alan Jackson
David Yannetti
Elizabeth Little
Attorneys at Law

Norfolk Superior Courthouse
Dedham, Massachusetts
Thursday, May 9, 2024

Paula M. Mills
Retired Certified Court Reporter
and Court Transcriptionist

I N D E X

WITNESS:	DIRECT	CROSS	REDIRECT	RECROSS
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Christopher Albert				
(By Mr. Lally)	14-7			14-107
(By Mr. Yannetti)		14-40		

Julie Albert				
(By Mr. Lally)	14-114			
(By Mr. Yannetti)		14-147		

E X H I B I T S

NUMBER		PAGE
55	Photograph	14-54
"T"	Text excerpt from Exhibit 48	14-76
"U"	Photograph from Facebook post	14-90
56	Photograph	14-104
57	Photograph	14-104
"V"	Photograph from Proctor pool	14-158

P R O C E E D I N G SMay 9, 2024

(Court in session at 9:05 a.m.)

(Defendant present. Jury present.)

THE CLERK: 22-117, Commonwealth versus Karen Read. Would counsel identify themselves for the record, please?

MR. LALLY: Adam Lally, for the Commonwealth. Good morning, Your Honor.

THE COURT: Good morning, Mr. Lally.

MS. MC LAUGHLIN: Good morning, Your Honor. Laura McLaughlin, for the Commonwealth.

THE COURT: Good morning, Ms. McLaughlin.

MR. JACKSON: Good morning, Your Honor. Alan Jackson, for Ms. Read.

THE COURT: Good morning, Mr. Jackson.

MS. LITTLE: Good morning, Your Honor. Elizabeth Little, also on behalf of Ms. Read.

THE COURT: Good morning, Ms. Little.

MR. YANNETTI: And good morning, Your Honor. David Yannetti, for Karen Read.

THE COURT: Good morning, Mr. Yannetti. Good morning, Ms. Read. Good morning, jurors.

I have to ask you those same three questions. Was everyone able to follow the instructions and

1 refrain from discussing this case with anyone since
2 we left yesterday?

3 Every said "yes" or nodded affirmatively.

4 Were you also able to follow the instructions
5 and refrain from doing any independent research or
6 investigation into this case?

7 Everyone said "yes" or nodded affirmatively.

8 Did anyone happen to see, hear or read
9 anything about this case, even inadvertently, since
10 we met yesterday?

11 Okay. So I am going to see counsel at sidebar
12 for just a moment.

13 Court Order: Jurors or Juror Issues
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Court Order: Jurors or Juror Issues

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Court Order: Jurors or Juror Issues

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Court Order: Jurors or Juror Issues

So, Mr. Lally, your next witness, please.

MR. LALLY: Yes, Your Honor. The Commonwealth
would call Mr. Christopher Albert to the stand.

Whereupon,

CHRISTOPHER ALBERT

having been first duly sworn, was examined and
testified as follows:

THE COURT: Any time you're ready, Mr. Lally.

MR. LALLY: Thank you, Your Honor.

DIRECT EXAMINATION

BY MR. LALLY:

Q Good morning, sir.

A Good morning, sir.

Q Could you please state your name and spell
your last name for the jury?

1 A It's Christopher Albert, A-L-B-E-R-T.

2 Q And where do you live, sir?

3 A I live at (f) [REDACTED] Canton,
4 Mass.

5 Q And how long have you lived there?

6 A Almost two years.

7 Q And how long have you lived in Canton?

8 A Since 1974.

9 Q And, so, pretty much your whole life?

10 A Pretty much. Since I was four.

11 Q And prior to living on Maple, where did you
12 live in Canton before that?

13 A 7 Meadows Ave. in Canton.

14 Q And how long did you live at 7 Meadows?

15 A From 2001 to 2021. About 20 years.

16 Q And who, if anyone, do you live with now?

17 A I live with my wife, Julie; my oldest son, who
18 just came home from the Navy; my middle son, Colin; and
19 my youngest son, (c) [REDACTED].

20 Q And how long have you and your wife Julie been
21 married?

22 A Roughly -- gosh, she's going to kill me -- 21
23 years. Around 21 years.

24 Q You mentioned you and your wife, Julie, have
25 three sons?

1 A Yeah.

2 Q And how old are they?

3 A My oldest is 25, my middle is 20, and my
4 youngest is 16.

5 Q Now, do you work, sir?

6 A Yes, I do.

7 Q What do you do for work?

8 A I'm self-employed. I own a small pizza shop.

9 Q What's the name of the pizza shop?

10 A It's called D&E Pizza.

11 Q And how long have you owned that?

12 A Twenty-five years this March.

13 Q And prior to that did you work sort of in the
14 same industry?

15 A Same industry pretty much my whole life.

16 Q And does your wife work?

17 A She does not.

18 Q Does she help out with the D&E Pizza shop at
19 times?

20 A She does some the behind-the-scene stuff, yes.

21 Q Now, when you lived on Meadows Ave., did you
22 have occasion to become familiar with someone named
23 John O'Keefe?

24 A Yes, I did.

25 Q And how is it that you sort of -- how is it

1 that you knew John O'Keefe?

2 A So he bought One Meadows Ave., the top house,
3 maybe like 2017, so he became my neighbor. And I guess
4 just from me driving by his house and coming home I saw
5 him, would wave to him and stuff. That's how I
6 initially became to know who John was.

7 Q And you mentioned he bought the house at sort
8 of the top of the street; is that correct?

9 A Yes, the very -- if you're coming off
10 Pleasant, you take a right down Meadows. It's the
11 first on the right.

12 Q And then on Meadows Ave., how about how many
13 houses are on Meadows?

14 A Well, between us or down the whole street, you
15 mean?

16 Q First down the whole street and then between
17 you.

18 A Yeah. So roughly on the whole street, I would
19 say there's like close to 30 houses from top to bottom
20 on both sides.

21 Q And then how about in between one and seven?

22 A So there's two. There's two houses between
23 mine and John's.

24 Q And your house is both odd numbers. Are they
25 on the same side of the street?

1 A Same side, yeah.

2 Q Now, you said that that's how you initially
3 came to know John O'Keefe. How did your relationship
4 sort of go on from there?

5 A So over the years, like, he was friendly with
6 some other folks that I was friends with, so we'd maybe
7 be out occasionally and bump into him. But he would
8 also come to my pizza shop a lot. He would take his
9 nephew (c) in my pizza shop a lot, so it was not
10 uncommon for him to stop by a couple of days a week and
11 usually just grab a slice.

12 Q Now, you grew up in Canton; correct?

13 A Yes.

14 Q And do you have any siblings?

15 A I do. I have six.

16 Q And what are the names of your six siblings?

17 A So my oldest is my older brother Brian. I
18 have a sister, Kathleen. She's older than me. And
19 then I'm next in line. And then I have a brother
20 Kevin, then a brother Keith, Brendon and Timmy. Seven
21 of us.

22 Q Where is it that you sort of fit in in that
23 sort of --

24 A I'm the third oldest.

25 Q Third oldest.

1 Now, your older brother, Brian, what does he
2 do for work?

3 A He's a Boston Police officer, or he was. He's
4 recently retired.

5 Q And your brother Kevin, what does he do for
6 work?

7 A He's a Canton Police officer.

8 Q And John O'Keefe, were you familiar with what
9 he did for work?

10 A Yes. I knew he was a Boston Police officer as
11 well.

12 Q Now, sir, if I could turn your attention to
13 January 28th, 2022, do you recall that day?

14 A Yes, I do.

15 Q And do you recall what day of the week that
16 was?

17 A It was a Friday, I believe.

18 Q And were you working at the D&E Pizza shop on
19 that day?

20 A I was.

21 Q And at some point in time in the afternoon
22 who, if anyone, of note sort of came into D&E?

23 A John came in that day with his nephew,

24 (c) [REDACTED].

25 Q And do you recall what did they get that day?

1 A They just got two slices of pizza, if I recall
2 correctly.

3 Q And what, if any, conversation did you have
4 with Mr. O'Keefe as far as plans for later in the
5 evening?

6 A So he asked me if I had any plans that night,
7 and I said, unfortunately, it's Friday and I'm working
8 pretty much till close. And I said but it's my
9 nephew's birthday and I know a bunch of people are
10 heading out and I was planning on meeting up with them
11 later when I got out of work. So I think I said to him
12 -- I said to him I'll shoot you a text later, if you're
13 around maybe we can hook up.

14 Q So, in that sense -- or how would you describe
15 your relationship with Mr. O'Keefe?

16 A Oh, it was a good relationship, yeah.

17 Q Would you consider yourself friends?

18 A Yeah, absolutely.

19 Q Now, pushing forward on January 28th, about
20 what time was it, if you know, that you sort of closed
21 up shop that night?

22 A So the shop stays open until 10:00. I know
23 that I left sometime a little bit before 10:00. I had
24 my wife drop me off some clothes. And it was like a
25 ritual she would, because those nights are tough for me

1 to get out early and go home. So she dropped me off
2 some clothes. And I remember just changing quick,
3 washing up a little bit and then leaving. So I think I
4 left before the store actually closed a few minutes.

5 Q Now, during the time or prior to you leaving
6 the pizza shop, what, if any, conversation via text did
7 you have with Mr. O'Keefe?

8 A He asked where I was. I said I was still
9 working. And he said something like why don't you talk
10 to boss, see if you can get out of there. And I just
11 said I'm married to this place. It's tough. I'll text
12 you when I leave. And then I shot him a text, I think,
13 when I got down to Waterfall and I said where are you.

14 Q And where did he say that he was?

15 A He was at C.F.'s, C.F. McCarthy's.

16 Q And are you familiar with both of those
17 establishments, as far as C.F. McCarthy's and
18 Waterfall?

19 A Yes, I am.

20 Q And with regard to your pizza shop, where is
21 C.F. McCarthy's in relation to that and where is the
22 Waterfall in relation to that?

23 A So, if I was sitting at my front door looking
24 out, C.F. McCarthy's would be to my right, and
25 Waterfall would be down the street diagonal, maybe like

1 200 yards, on the opposite side of the street.

2 Q So both sort of walking distance from where
3 you work?

4 A Yeah. Yeah.

5 Q Now, your home on Maple, where is that in
6 relation to those businesses on Washington Street,
7 including your own?

8 A So Maple Street is like -- probably from my
9 pizza shop is maybe like a five-minute walk, you know,
10 it's not far, and a little closer to Waterfall. So
11 maybe it's like a seven-minute walk from D&E and like a
12 five-minute walk from Waterfall.

13 Q And are there any sort of -- in the area of
14 where you live is there any sort of like town buildings
15 or anything like that?

16 A Yes. So I kind of live behind the library.
17 Like you take a left on Maple and the library is like
18 two buildings after me on the left-hand side. And then
19 the town hall is little further down on the right.

20 Q And the library that's around where you live,
21 is that the only public library in town?

22 A Besides what's inside schools, yeah, that's
23 the only public library.

24 Q And, so, again, I'm sorry, about what time is
25 that you leave D&E to go to Waterfall?

1 A Just before 10:00. Maybe like 9:50-ish.

2 Q And, as far meeting up with people, who is it
3 that directs you to go to Waterfall specifically?

4 A I think my wife said are you coming down, are
5 you there. She was down there. So I had a
6 conversation with her. I think that's how I headed
7 down there.

8 Q So you went there to meet your wife; correct?

9 A Yeah. Yeah. She was down there.

10 Q And had you been to the Waterfall before?

11 A Yes.

12 Q And, so, when you walk into the Waterfall,
13 where did you go as far as -- who, if anyone, did you
14 recognize when you came in?

15 A So it's pretty much when you walk in it's just
16 kind of like open. And my wife was there. Matt McCabe
17 was there. Jen McCabe was there. My sister-in-law
18 Nicole was there. My niece Caitlin was there. I think
19 when I first walked in that's who was there.

20 Q And you mentioned Jennifer and Matt McCabe; is
21 that right?

22 A Yeah.

23 Q And how do you know them?

24 A Well, I grew up with -- I didn't grow up with
25 Jen. She's younger than me. But she's lived in Canton

1 for a long time. My brother Brian is married to her
2 sister, Nicole. So I've known her pretty much my whole
3 life.

4 Q And you were testifying earlier about some of
5 the people that you and Mr. O'Keefe sort of knew in
6 common. Would Mrs. McCabe be one of those people?

7 A Yes. Yeah.

8 Q And, when you walk in, relative to the
9 establishment, whereabouts were those people situated?

10 A So they were on like a table that was close to
11 the bar. It's like set up they have like three tables
12 in a row. And I think we were maybe either in the
13 middle or the next table to the bar.

14 Q So, with those three sort of tables together,
15 if you know, about how long a table are we talking
16 about?

17 A I would say they're about a six-foot table.

18 Q And was this a low-top, high-top, or something
19 else?

20 A It's like a high-top.

21 Q And located close to the bar; is that correct?

22 A Yes.

23 Q What, if anything, do you recall from that
24 evening as far as entertainment within the Waterfall?

25 A There was a live band that was playing to the

1 side.

2 Q And about how close to your table was the live
3 band that was playing?

4 A Oh, within like six or seven feet probably.

5 Q So fair to say pretty loud in there?

6 A Pretty loud, yeah.

7 Q And when you walk in, where do you sort of --
8 where do you go in reference to sort of the other
9 people at the table?

10 A I went right over to the table and I think I
11 walked right over, said hello to them, sat down.

12 Q And what, if anything, did you order when you
13 got there?

14 A I ordered a beer.

15 Q And did you eat while you were there as well?

16 A I did, yeah. I was starving. I didn't eat at
17 all day, so I ordered some food, appetizers.

18 Q And throughout the course of the evening what
19 is it -- you're at a bar, so you're drinking; correct?

20 A Sure.

21 Q And what were you drinking?

22 A Miller Lite.

23 Q And is that sort of normally what you would
24 drink when you go out?

25 A Yeah.

1 Q Now, you mentioned that initially when you get
2 there it's yourself, your brother Brian, his wife, the
3 McCabes, and your niece Caitlin; is that correct?

4 A No. My brother Brian wasn't there yet.

5 Q Okay.

6 A Yeah. There was Jen McCabe, Matt McCabe, my
7 wife, Caitlin, and Nicole.

8 Q Thank you for correcting me.

9 A Yeah. No problem. Sorry.

10 Q So at some point shortly after that or at some
11 point who, if anyone else, arrives and sort of joins
12 your table, your group?

13 A So my brother Brian and a gentleman named
14 Brian Higgins, they came and joined us.

15 Q And Brian Higgins, is that someone that you
16 had met previously?

17 A Yeah, a few times.

18 Q And how did you know him?

19 A I don't know how I initially met him, but just
20 probably just seen him around. I knew that he worked
21 as an ATF agent. I knew that he worked inside the
22 Canton Police Department, so I think I knew him from
23 that, just being around.

24 Q Fair to say you knew him sort of through your
25 brothers, either Brian or Kevin or both?

1 A Yeah, that's the only way I met him.

2 Q And about how long after you arrived was it
3 that they arrived?

4 A Probably within like 35 minutes, roughly.

5 Q And what, if anything, did you know about sort
6 of where they had been prior to or what they had been
7 doing earlier that day?

8 A So they were in New York at a police officer's
9 funeral. They went there for the ceremony. And the
10 snowstorm was coming, so they decided that they were
11 going to drive back early to beat the storm.

12 Q Now, you mentioned -- well, as far as going
13 out on that particular evening, what was that in
14 reference to?

15 A So my nephew, Brian, it was his birthday.

16 Q So when you say your nephew, Brian, whose son
17 is that?

18 A So that's my older brother Brian's son,
19 Bernie.

20 Q So Brian, Jr.?

21 A Brian, Jr., yeah. Call him Brian, Jr.

22 Q And was he present at the Waterfall that
23 night?

24 A He wasn't, no. He decided that he didn't want
25 to go out.

1 Q And when your brother, your older brother,
2 Brian, and Mr. Higgins come in, where is it that they
3 go sort of in relation to the group?

4 A So they walk in and they come directly over to
5 the table.

6 Q Now, at some point later in the evening who,
7 if anyone else, also joins your group or your table?

8 A So John O'Keefe came with Karen Read.

9 Q And how did you know Karen Read at that time?

10 A I met her a couple of times. She also had
11 been in the pizza shop a couple times, and driving by
12 the street when I would come home she would be outside
13 One Meadows.

14 Q And, just to be clear, when we're speaking
15 about Ms. Read, do you see her in the courtroom today?

16 A Yes, I do.

17 Q Could you just identify as to where she's
18 seated or an article --

19 A She's sitting right over there between the two
20 attorneys.

21 MR. LALLY: Just ask the record reflect
22 identification of the defendant, Your Honor.

23 THE COURT: Okay.

24 BY MR. LALLY:

25 Q Now, prior to Mr. O'Keefe coming into the

1 Waterfall, you had mentioned some text communications
2 with him; is that correct?

3 A Yes.

4 Q And what, if any other, communications did you
5 have with Mr. O'Keefe before he got there?

6 A I don't think nothing -- before I got to the
7 Waterfall?

8 Q Not before you got to the Waterfall. Before
9 Mr. O'Keefe got to the Waterfall.

10 A With Mr. O'Keefe?

11 Q Yes.

12 A Just that where we'll see you or where were we
13 going, where was he going to be.

14 Q What, if any, communication do you recall in
15 regard to who was there or who was going to be there?

16 A With Mr. O'Keefe?

17 Q Yes.

18 A Yeah. So I think at some point he said, who's
19 there. I said, my brother, Brian. I said, Brian. He
20 said, your brother, Brian? I said, yeah, Brian and
21 Brian Higgins are there. And he said, Where's your
22 brother, Kevin? And I said, I have no clue, lol, or
23 something.

24 Q And, when Mr. O'Keefe and Ms. Read come into
25 the bar, where is it that they go upon coming in?

1 A They walked directly in, came towards our
2 table, just striked up conversation. I think John came
3 over to my wife and said hello to her first maybe,
4 then just kind of got with the group, started talking.

5 Q Now, fair to say Mr. O'Keefe knew your wife,
6 Julie, as well?

7 A Yes.

8 Q And how would you describe their relationship
9 as far as you knew?

10 A Good relationship.

11 Q And when they come -- when Mr. O'Keefe and the
12 defendant come over to the area where you and your wife
13 is, what, if anything, did you observe the defendant to
14 do?

15 A Well, when they came over, I think they
16 started talking. At one point when they first came
17 over, the defendant came in with a glass underneath her
18 jacket, and I thought that was kind of funny. I
19 laughed about it and made a comment about it.

20 Q And what, if anything, did you notice sort of
21 about the glass? What was in the glass, anything like
22 that?

23 A It was just a tall, like, cylinder glass with
24 some clear liquid in it and a lime.

25 Q And that was under her coat when she came in?

1 A Yeah. It was like she pulled it out.

2 Q Now, if you know, about what time was it that
3 Mr. O'Keefe and Ms. Read came in?

4 A So I got there close to 10:00. I would say
5 10:45-ish, to the best of my recollection.

6 Q And following sort of the hellos and all that
7 kind of stuff as far as after they first came in, where
8 did they go from there?

9 A I think the defendant sat down and I think --
10 well, John went to the bar and got a beer.

11 Q And do you know is that sort of what John
12 would typically drink?

13 A Yeah. Bud Light, I think.

14 Q And you mentioned that the defendant sat down.
15 Where did she sit down in relation to you and your
16 wife?

17 A I think right next to my wife.

18 Q Now, with regard to just the -- how would you
19 describe sort of the general sort of tone or demeanor
20 within the group at the Waterfall that night?

21 A It was fine. Everyone was just having a good
22 time.

23 Q So no arguments, anything like that?

24 A No, not at all.

25 Q And, specifically between Mr. O'Keefe and the

1 defendant, what, if anything, did you observe between
2 them?

3 A I didn't notice anything abnormal.

4 Q Now, if you recall, what was Mr. O'Keefe
5 wearing on that evening?

6 A Blue jeans, baseball hat, and kind of like a
7 pullover, light sweatshirt-type of grayish garment. I
8 don't know what you would call it. It wasn't like a
9 hoodie and it wasn't -- it was like a long-sleeve
10 shirt.

11 Q And is that what he was wearing when he walked
12 in?

13 A Yes.

14 Q And at any point in time did you see him with
15 like a jacket or anything like that?

16 A No.

17 Q Now, as far as your observations of
18 Mr. O'Keefe, what, if anything, did you observe about
19 that clothing, as far as any tears or any dishevelment
20 of it at all?

21 A No, I didn't notice anything. It looked fine
22 to me.

23 Q And, as far as Mr. O'Keefe, his person,
24 himself, what, if anything, did you observe as far as
25 any injuries or anything like that when you saw him?

1 A Didn't she anything. Looked normal.

2 Q Now, after Mr. O'Keefe went to the bar and got
3 a beer, do you know where he went from there?

4 A Just came back over to the table, started
5 chatting people up.

6 Q And, when you say "the table," was that sort
7 of your area or was there a different area that he went
8 to?

9 A No, the same table, the same high-top. Some
10 people were sitting; some people standing.

11 Q And, as far as sort of this length you
12 described, about six feet or so, of that table, if you
13 recall, sort of where were people situated around the
14 table?

15 A I mean, I was sitting at one point because I
16 was eating. So I was sitting in one seat. My wife was
17 sitting in another seat. Matt and Jen were sitting in
18 another seat. I recall John standing a lot. I don't
19 think he sat at all. I think Karen was sitting at one
20 point, probably got situated maybe across from my wife
21 or next to my wife.

22 Q Now, as far as Mr. O'Keefe was concerned, do
23 you recall anything specific that you discussed or
24 talked about while you were there that night?

25 A No, nothing in particular.

1 Q And throughout sort of the course of the time
2 that you were there, what, if any, discussion was there
3 as to going someplace or wanting to go someplace after
4 the Waterfall?

5 A So we have this like little ritual that when
6 one of my nieces or nephews turn 21 we go back to the
7 pizza shop, you know, after hours and turn on the oven
8 and make pizzas and stuff, and there was talk about
9 going back there. Ms. Read asked if we could go back
10 and make pizzas up in my pizza shop a couple of times.
11 Then there was talk about maybe after -- someone
12 mentioned going back to my brother's house after.

13 Q And, just to be clear, your brother's house,
14 which brother?

15 A My brother, Brian.

16 Q And where does your brother Brian live at that
17 point?

18 A 34 Fairview.

19 Q And are you familiar with that address?

20 A Yeah. I used to live there. I grew up there.

21 Q So prior to it being your brother Brian's
22 house, was that your parents' house?

23 A My parents' house, yeah.

24 Q So that's where you and your siblings
25 essentially grew up from the time that you moved to

1 Canton?

2 A Yes.

3 Q Now, as far as going over to your pizza shop
4 to make pizzas, things like that, is that something
5 that the defendant talked about once or more than once?

6 A A few times.

7 Q And you referenced sort of this ritual when
8 one of your nieces or nephews turned 21. And it was
9 your nephew Brian, Jr.'s birthday the following day; is
10 that correct?

11 A Yeah.

12 Q Was he turning 21 at that point?

13 A I think so. I can't remember exactly if he's
14 20 or 21. I think he was turning 21.

15 Q So in relation to this evening of
16 January 28th, that sort of ritual that you were talking
17 about, when was the last time before January 28th that
18 you had done that, if you know?

19 A I'm trying to see who else turned 21. I can't
20 remember exactly. I know it's recent. I remember
21 doing it. I just can't remember the date.

22 Q And that's all I'm really asking. So was it
23 recent to January 28th?

24 A Yeah. It was sometime before that. Within
25 like a couple of months I think someone turned 21.

1 Maybe we just went there.

2 Q And, so, what, if any, conversation from your
3 end as far as -- obviously, it's your pizza shop. So
4 what, if any, conversation from your end was there in
5 reference to doing that?

6 A To doing that that night? So we were doing a
7 weight loss competition, me, Matt McCabe, and my
8 brother Brian. And we had like two more weeks left in
9 it. We do it every year. It's like a charity. We do
10 it and the proceeds go to like scholarship funds. So I
11 said no because I didn't -- we were doing this weight
12 loss challenge and I just didn't want to give in and,
13 you know, eat pizza two weeks before we went in it.

14 Q And your wife, Julie, how long was she at the
15 bar for?

16 A Not long when I got there. She probably was
17 only there for maybe 35-40 minutes. She had a
18 migraine. She wanted to go home, so she left.

19 Q So she indicated she had a migraine and she
20 was going home?

21 A Yeah. She didn't feel well.

22 Q Okay. And was that before or after
23 Mr. O'Keefe and Ms. Read arrived?

24 A She left after they arrived. So then she must
25 have been -- she must have left later than that, yeah.

1 Q Now, later on in the evening what, if
2 anything, did you buy for the group?

3 A So at one point towards the end of the night I
4 bought a round of Fireball shots for the group.

5 Q And who partook in that, if you know?

6 A I don't remember exactly. Probably half of
7 the people there took them. I don't remember everyone.
8 I wasn't paying attention.

9 Q And when you say it's sort of towards the end
10 of the night, when was it that things sort of wrapped
11 up at the Waterfall?

12 A I think they call last call right before
13 12:00. Pretty much right before 12:00 it all started
14 wrapping up.

15 Q And, as far as the group that you were with at
16 the high-top table, who, if anyone, from that group
17 left first?

18 A So my wife left first. Obviously, she didn't
19 feel well. She left earlier. Then Brian and Brian
20 left. My sister-in-law left. Matt and Jen left. I
21 left probably second to last. I probably left last
22 with John and Karen or right around the time that John
23 and Karen left.

24 Q And do you recall as far as you're leaving
25 around the same time, do you recall walking out

1 together or seeing them outside, or where is it that
2 you recall sort of you leaving at the same time?

3 A My best recollection is I walked out roughly
4 the same time. And I walked out the building and I
5 come up Washington to the right, and they was either
6 shortly after or shortly before me and they walk up to
7 the left.

8 Q And, when you say walk up Washington, did you
9 walk home that night?

10 A Yeah, I walked home.

11 Q And, when you came out of the bar, what, if
12 anything, did you notice sort of about the weather or
13 what was going on at that point?

14 A It just started snowing. It was cold out and
15 it just started snowing. The ground had like a light
16 coat.

17 Q Could you still sort of see the street or the
18 blacktop?

19 A Oh, yeah. Yeah, you could still see it.

20 Q And you mentioned you walked out towards
21 Washington and Mr. O'Keefe and Ms. Read did as well?

22 A Yes.

23 Q And which direction? Did you go in the same
24 direction, different direction?

25 A So when you come out, you come out the

1 building, you have to go to the left in order to get
2 onto Washington. So I come out to the left and then go
3 to the right onto Washington and they would go to the
4 left on Washington.

5 Q So you're sort of walking opposite --

6 A Opposite directions.

7 Q -- on Washington?

8 A Yes.

9 Q Now, as far as throughout sort of the course
10 of the evening did you have occasion to see sort of
11 what Mr. O'Keefe -- you mentioned that he went to the
12 bar and he got a beer. Was that the only beer that you
13 saw him having or did he have more than one?

14 A I'm sure he had more than one. Yeah, I saw
15 him with more than one.

16 Q So you saw him -- but essentially what I'm
17 asking is, throughout the course of the evening when
18 you saw him drinking, other than maybe the Fireball
19 shot, you saw him just drinking beer?

20 A Just beer.

21 Q And, as far as Ms. Read was concerned, what,
22 if anything, did you observe her drinking throughout
23 the course of the evening?

24 A Just a clear liquid in a glass. I assume it
25 was some sort of vodka drink.

1 Q And was that the same glass that she had come
2 into the establishment with under her coat or was it a
3 different glass later on?

4 A I believe it was the same one.

5 Q So you leave from the Waterfall and you're
6 walking home; is that right?

7 A Correct.

8 Q So fair to say you didn't go to 34 Fairview
9 that night?

10 A I did not.

11 Q And about what time was it that you got home?

12 A Sometime between, I'd say, five past and 10
13 past 12:00, somewhere in the window.

14 Q And was your wife home at that point?

15 A She was.

16 Q And, as far as your children were concerned,
17 about how many of your three sons were living with you
18 at that time?

19 A At that time, two, my 16-year-old -- well, he
20 wasn't 16 years old at the time -- but my 16-year-old
21 and my 20-year-old.

22 Q So 16 and 20 now; is that correct?

23 A Sixteen and twenty now. So they'd be like 14
24 and 18 then, I guess.

25 Q And, so, your oldest son --

1 A He was in San Diego in the Navy.

2 Q And, if you know -- or did you check on
3 anything as far as your kids when you got home? Were
4 they there, if you know?

5 A I ran right upstairs. I was freezing. I went
6 right into my room.

7 Q Essentially, you went to bed; is that correct?

8 A Correct.

9 MR. LALLY: Your Honor, with the Court's
10 permission, I would ask to publish for the jury
11 just a small portion from what's been marked as
12 Exhibit 53, the Waterfall surveillance.

13 THE COURT: Okay.

14 MR. LALLY: Mr. Gilman, if I could have from
15 Channel 3 the second video down, and if you could
16 just pause there for a moment, Ms. Gilman?

17 (Whereupon, the video was played and paused.)

18 BY MR. LALLY:

19 Q Mr. Albert, looking up at the screen, do you
20 recognize what I'm showing you, what's depicted up on
21 the screen?

22 A Yeah. So those are the tables that I was
23 speaking of that there's like two or three in a row.

24 MR. LALLY: May I approach, Your Honor?

25 THE COURT: Yes.

1 BY MR. LALLY:

2 Q So, sir, what I'm handing to you is a laser
3 pointer. Basically, just click that button and point
4 it at the screen. Okay?

5 Mr. Albert, using that laser pointer that I
6 just handed to you, if you could direct the jury's
7 attention to about where the high-top is and then about
8 where you were seated at that high-top?

9 A So there's the high-top. I can't really see
10 myself, to be honest with you, this far away. It's
11 somewhere around -- I think I ate on this side here.

12 Q And, as far as the bar is concerned, where
13 would that be, sir?

14 A Back here. Wait. Oh, so this is from walking
15 into the Waterfall. Okay. So the bar is after. So
16 that's the high-top next to the bar. The bar is back
17 there.

18 Q And, as far as the band that you were talking
19 about that was playing, would you direct the jury's
20 attention to where that was?

21 A On this side over here. It's kind of fuzzy,
22 but that side.

23 MR. LALLY: And, Ms. Gilman, if I could ask
24 you to fast forward to 10:54, and I would ask if
25 you could play that from 10:54 to about 10:56?

1 (Whereupon, the video was played.)

2 MR. LALLY: I'm sorry. If you could just
3 pause briefly, Ms. Gilman?

4 (Whereupon, the video was paused.)

5 BY MR. LALLY:

6 Q Now, Mr. Albert, looking up at the screen, as
7 far as the door that you came out, the door that you
8 eventually exited from the Waterfall, do you see sort
9 of that general area where that is in the video?

10 A No, because I think it's off line here. I
11 think it would be over here.

12 Q So it would be off sort of towards the left;
13 is that correct?

14 A Yeah, down this way (Indicating).

15 MR. LALLY: Ms. Gilman, if you could press
16 play?

17 (Whereupon, the video was played.)

18 MR. LALLY: Pause it, please.

19 (Whereupon, the video was paused.)

20 BY MR. LALLY:

21 Q As far as the two individuals sort of walking
22 in, do you recognize who those individuals are?

23 A I do. That's John O'Keefe and Ms. Read.

24 MR. LALLY: And, again, Ms. Gilman, if you
25 could just run it to 10:56?

1 (Whereupon, the video was played.)

2 MR. LALLY: Thank you, Ms. Gilman. You can
3 take that down, please.

4 BY MR. LALLY:

5 Q Now, Mr. Albert, as far as your son Colin, do
6 you know sort of where he was that night?

7 A Yes. So he was at my brother Brian's house
8 for my nephew's birthday.

9 Q And he came home sometime after you; is that
10 correct?

11 A Correct.

12 Q And, essentially, you came in and went to bed.
13 So do you know what time your son came home that --

14 MR. YANNETTI: Objection.

15 THE COURT: Do you know? Just answer yes or
16 no, nothing else.

17 A Yes.

18 BY MR. LALLY:

19 Q And how do you know that, sir?

20 A Because he opened our bedroom door and said
21 goodnight, guys. I love you. I'm home.

22 Q And about how long after you got home was it
23 that you son got home?

24 A I'd say within 10 minutes.

25 Q And, as far as sort of coming into your room,

1 is that something that was required of your kids when
2 they came home?

3 A He would always do that, yeah. It was just to
4 let us know that they were home.

5 Q Now, turning your attention to the next day on
6 the 29th, about -- obviously, at some point you woke
7 up. Do you recall about what time that was?

8 A 8:00-ish. 8:30-ish.

9 Q So sometime between 8:00 and 8:30?

10 A Yeah. I was still in bed. I woke up, but I
11 didn't leave my room.

12 Q And what was it that or who was it that woke
13 you up that morning?

14 A At that time I just woke up on my own.

15 Q And when you woke up, what happened after you
16 woke up?

17 A Shortly after I woke up my entered the room,
18 but that was a little bit later. I don't know exactly
19 what time. She informed me that something had happened
20 to John.

21 Q And what was it that she told you?

22 A I don't know the exact words that she said,
23 but basically that John had died.

24 Q And what, if anything, did she indicate to you
25 as to where John had died?

1 A That he was found somewhere on the front lawn
2 of 34 Fairview.

3 Q And following receiving that information where
4 did you go or where did you and your wife go?

5 A I was in shock. I was like what are you
6 talking about, like what do you mean. Then I jumped up
7 and she's like let's -- we have to go over -- let's go
8 over to your brother's house.

9 Q And about what time was it, if you know, that
10 you got over to your brother's house?

11 A Sometime approximately like after 9:00
12 o'clock. I don't remember exactly what time we went
13 over there. Maybe 9:00 or 9:30.

14 Q And, when you arrived at your brother's house,
15 who, if anyone, was there?

16 A To the best of my recollection, excuse me,
17 from what I remember, I was there, my wife was there,
18 my brother Brian, Nicole. Brian Higgins was there. I
19 believe Matt McCabe was there and Jen McCabe was there.

20 Q When you came into the home, sir, where were
21 they in relation --

22 A Just sitting at the kitchen table.

23 Q And, if you know, about how long did you stay
24 at your brother's house when you came over?

25 A Maybe an hour.

1 Q And where did you go from there?

2 A Afterwards, just home.

3 Q Now, as far as -- subsequent to this, at some
4 point within the days that followed did you have
5 occasion to speak with some troopers or members of the
6 state police?

7 A Yes, I did.

8 Q Okay. And how many troopers from the state
9 police did you talk to when you spoke with them?

10 A Two.

11 Q And where was that?

12 A At my condo.

13 MR. LALLY: Thank you, sir.

14 I have no further questions, Your Honor.

15 THE COURT: Okay. Cross-examination.

16 MR. YANNETTI: Thank you, Your Honor.

17 CROSS-EXAMINATION

18 BY MR. YANNETTI:

19 Q Good morning, sir.

20 A Good morning, sir.

21 Q Mr. Albert, you and I have never met; correct?

22 A I don't believe so.

23 Q You've testified that you've essentially lived
24 in Canton your whole life; correct?

25 A Correct.

1 Q Moved there when you were four years old?

2 A Correct.

3 Q And the house to which you and your family
4 moved was 34 Fairview; correct?

5 A Yes.

6 Q You lived there for how long?

7 A Thirty-three years.

8 Q And you currently own D&E Pizza in Canton?

9 A Correct.

10 Q I believe you testified that you've owned it
11 for approximately 25 years?

12 A Correct.

13 Q Clearly, you have a lot of ties to the city of
14 Canton; would you agree?

15 A Sure.

16 Q You live there?

17 A Yes.

18 Q You work there?

19 A Yes.

20 Q You have family there?

21 A Yup.

22 Q You raised your kids there?

23 A Yup.

24 Q And you also are a town selectman in the city
25 of Canton?

1 A City elected.

2 Q Or the town of Canton, I should say.

3 A It's a town, correct.

4 Q Right.

5 And, not only that, but your brother,
6 Kevin Albert is a police officer in Canton?

7 A He is.

8 Q Your brother Brian Albert, with whom you grew
9 up, is currently retired but had been a Boston Police
10 officer who lived in Canton; correct?

11 A Correct.

12 Q You would agree with me that Brian Albert only
13 moved from Canton after John O'Keefe was found dead on
14 his front lawn; correct?

15 A Can you rephrase that?

16 Q I'll phrase it the exact same way and ask for
17 a yes or no, if you can do that. You would agree with
18 me that your brother Brian Albert only moved from
19 Canton after John O'Keefe was found dead on his front
20 lawn?

21 MR. LALLY: Objection.

22 THE COURT: Can you answer that? Can you
23 answer that?

24 THE WITNESS: Yeah. I just don't understand
25 the phrase. But he moved. He moved shortly after

1 that, yes.

2 BY MR. YANNETTI:

3 Q Your brother Tim Albert lives with your
4 parents in Canton; correct?

5 A Correct.

6 Q And Tim Albert and your parents live directly
7 across the street from the Canton Police Department;
8 correct?

9 A Correct.

10 Q Do you know whom they bought that house from?

11 MR. LALLY: Objection.

12 THE COURT: The objection is sustained.

13 BY MR. YANNETTI:

14 Q You still live in Canton?

15 A Correct.

16 Q With your wife, Julie Albert?

17 A Correct.

18 Q And your son, Colin Albert; correct?

19 A Along with my other two sons, yes.

20 Q And you would agree that your entire family
21 has deep roots in the town of Canton?

22 A Yes.

23 Q You would agree with me that the Albert family
24 is well-known in the town of Canton?

25 A We have a big family.

1 Q And you would agree with me that the Albert
2 family is a powerful family in the town of Canton?

3 MR. LALLY: Objection.

4 THE COURT: Sustained.

5 BY MR. YANNETTI:

6 Q As a town selectman, you have some power; do
7 you not?

8 A I'm one of five selectman.

9 Q And, as a police detective, Kevin Albert has
10 some power; does he not?

11 MR. LALLY: Objection.

12 THE COURT: Sustained.

13 BY MR. YANNETTI:

14 Q And you also have close friends on the Canton
15 Police Department; do you not?

16 MR. LALLY: Objection.

17 THE COURT: I'll allow that.

18 A I have some.

19 BY MR. YANNETTI:

20 Q Now, you know that Massachusetts State Police
21 Trooper Michael Proctor is the lead investigator on
22 this case; correct?

23 A I know that.

24 Q One of your wife's best friends is
25 Michael Proctor's sister, Courtney Proctor; correct?

1 MR. LALLY: Objection.

2 THE COURT: That's sustained. If you have
3 another witness you can ask that, Mr. Yannetti.

4 BY MR. YANNETTI:

5 Q You know Courtney Proctor; correct?

6 MR. LALLY: Objection.

7 THE COURT: I'll allow it.

8 A Yes.

9 BY MR. YANNETTI:

10 Q And you know her to be Michael Proctor's
11 sister; correct?

12 A That's correct.

13 Q You attended Michael Proctor's sister's
14 wedding; correct?

15 MR. LALLY: Objection, Your Honor. May we
16 approach?

17 THE COURT: Sure.

18 (Whereupon, there was a sidebar conference as
19 follows:)

20 THE COURT: Okay. What's the objection?

21 MR. LALLY: The objection, Your Honor, is to
22 the relevancy of any of this. And I understand
23 what Mr. Yannetti would like to do as far as trying
24 to argue that it's biased.

25 What I don't understand is how it pertains to

1 this witness. So what *Commonwealth versus Martinez*
2 says is that you are allowed to explore bias as it
3 pertains to the witness, not just to any other
4 witness within the case. So any bias, even if it
5 existed as far as Christopher Albert is concerned,
6 has absolutely no bearing on the investigation.
7 He's not an investigator. So his knowledge of any
8 sort of purported bias of Trooper Proctor has no
9 bearing through his testimony and no relevancy to
10 his testimony, to his testimony whatsoever.

11 THE COURT: What do you say, Mr. Yannetti?

12 MR. YANNETTI: I disagree.

13 THE COURT: I know that, but what do you say?

14 MR. YANNETTI: Right. Well, that's my opening
15 salvo. The evidence that I'm seeking to introduce
16 is evidence that is relevant to Trooper Proctor's
17 bias, his connections to the Albert family, how
18 deep they go, all goes to his credibility.

19 The case law is such that you can introduce
20 extrinsic evidence on the issue of bias, it's that
21 fundamental to a defendant's right to explore.

22 THE COURT: Right, which is in my discretion.
23 So you've gone as far as I think I'm going to let
24 you go and it will still be a question-by-question
25 with this witness, again, and I -- so if you

1 individualize it, then you can add more.

2 MR. YANNETTI: Well, I think am
3 individualizing it by talking about his specific
4 connections with Trooper Proctor.

5 THE COURT: So if you focus on that -- the
6 Alberts' wedding was 12 years ago.

7 MR. YANNETTI: Right. Your Honor, I know the
8 Court has indicated that that's -- or at least with
9 regard to the evidence. I would argue it's a
10 strength. It talks about how far back these
11 connections go, and it wasn't just that he was at
12 the wedding, that he was one of the invited guests.
13 His son was actually in the wedding party, Michael
14 Proctor. That has to be brought out before this
15 jury, the deep ties that they have.

16 THE COURT: And that can be done with another
17 witness. It's just not him.

18 MR. YANNETTI: But he is a witness that has
19 personal, direct knowledge of it. He was there.
20 Why wouldn't I be able to ask him about his own
21 knowledge?

22 MR. LALLY: Your Honor, if I may, what case
23 law specifically states this witness's bias, this
24 witness's likelihood to prevaricate based on that
25 bias. There has been nothing about any

1 relationship that he may or may not have with
2 Trooper Proctor that bears on his testimony or his
3 prevarication.

4 If you want to ask Trooper Proctor about it, I
5 think that is permissible. But as far as asking
6 this witness or any other witnesses, frankly, about
7 whatever their relationship is with Trooper Proctor
8 is simply not appropriate; it's not allowed by the
9 case law. You can't ask other witnesses about some
10 other witness's bias.

11 THE COURT: Is there any statement to Proctor
12 suggesting he only made that statement because of a
13 friendship with Proctor? That would be how you get
14 it in.

15 MR. YANNETTI: If I may just have a moment?

16 THE COURT: Yes. Jurors, feel free to stand
17 up and stretch if you'd like.

18 (Whereupon, the sidebar conference continues.)

19 MR. YANNETTI: Okay. Thank you for your
20 patience.

21 On direct examination, this witness testified
22 a couple of things that he has never testified to
23 before that I'm going to impeach him with. One is
24 that he left the bar at 12:05 to 12:10.

25 THE COURT: Are you saying he got home at

1 12:05 or 12:10?

2 MR. YANNETTI: Even worse, because the video
3 shows he didn't leave the bar until 12:13. And
4 then tied in with that is the fact that he now
5 claims that his son, Colin, opened the bedroom door
6 and that it's after he got up there.

7 THE COURT: Ten minutes after?

8 MR. YANNETTI: Exactly. And he has testified
9 under oath previously that he doesn't know when
10 Colin got home and he just heard it from his wife.

11 THE COURT: Okay.

12 MR. YANNETTI: It is precisely because of his
13 relationships with and his family's relationships
14 with the Proctor family, I would argue, that
15 Trooper Proctor did not press him like he would any
16 other witness. This was treated as a very informal
17 meeting. He didn't ask a lot of questions about
18 who got home when. He never included Colin in his
19 police report.

20 THE COURT: Okay. So the Commonwealth's
21 objection is sustained. You have to move on,
22 including on the wedding 12 years ago. You can
23 cross-examine him on those two point that you made
24 that you just said.

25 MR. YANNETTI: Yes. Of course.

1 THE COURT: And, if that opens the door you
2 think in some way, you can come back. Okay?

3 (Whereupon, the sidebar conference concluded.)

4 BY MR. YANNETTI:

5 Q I believe you testified, sir, that you have
6 known Michael Proctor's sister for about 20 years?

7 MR. LALLY: Objection.

8 THE COURT: I don't think he said that, but
9 we'll let that -- we'll let that stand and then
10 move on, please.

11 BY MR. YANNETTI:

12 Q About 20 years, you testified?

13 A I'm not sure if that's --

14 Q Didn't you testify to that on direct
15 examination just moments ago when Mr. Lally was asking
16 you questions?

17 MR. LALLY: Objection, Your Honor.

18 THE COURT: Next question, Mr. Yannetti.

19 Objection is sustained.

20 BY MR. YANNETTI:

21 Q How long have you known Michael Proctor for?

22 A I mean, I know he's Courtney's sister,
23 brother. I couldn't tell you exactly how long I've
24 known him for.

25 Q About 15 years or so?

1 A Roughly.

2 Q All right. Who is Kenneth Berkowitz?

3 A The former Canton Police Chief.

4 Q And how do you know him?

5 A His son and my son are the same age, so they
6 played on some sports teams when they were younger
7 together. I think that's when I first came to know
8 Ken.

9 Q And you became friendly with him?

10 A I became friendly with him, sure.

11 Q And how would you characterize your
12 relationship with him?

13 A Friends.

14 Q You've seen him socially?

15 A Rarely.

16 Q You've been out for drinks with him?

17 A I think maybe once.

18 Q And you've known him for how long?

19 A Twenty-plus years.

20 Q And you say you've only been out with him for
21 drinks one time in those 20 years?

22 A I can't even remember if it was with drinks
23 one time, yeah. No.

24 Q What other types of activities have you done
25 together?

1 A I can't think of any. I think he came to an
2 event that I held one time. That's about it.

3 Q Have you been out with him in a group setting?

4 A That event that I just mentioned, yeah.

5 Q And what event was that?

6 A It was my campaign event when I was running
7 for select board.

8 Q All right. And he was one of your supporters?

9 A He came by.

10 Q Did he donate money to your campaign?

11 A I think he did.

12 MR. YANNETTI: May we approach, Judge?

13 THE COURT: Yes.

14 (Whereupon, there was a sidebar conference as
15 follows:)

16 MR. YANNETTI: I have a photo that I'd like to
17 display, actually introduce and then display to the
18 jury of the two of them together, smiling for the
19 camera.

20 THE COURT: Is there an objection?

21 MR. LALLY: No.

22 MR. YANNETTI: Thank you.

23 (Whereupon, the sidebar conference concluded.)

24 BY MR. YANNETTI:

25 Q Sir, I'm going to display a photograph, with

1 the Court's permission, on the screen and I'd ask you
2 to take a look at it and, if you can, let the jury know
3 --

4 THE COURT: Do you have a hard copy of it?

5 MR. YANNETTI: Yes, we do have a hard copy?

6 THE COURT: So why don't we show it to the
7 witness.

8 MR. YANNETTI: I can do that. Thank you, Your
9 Honor.

10 THE COURT: And then take that into evidence
11 and then --

12 MR. YANNETTI: That makes sense.

13 May I approach, Judge?

14 THE COURT: Yes.

15 BY MR. YANNETTI:

16 Q Okay. Sir, I've handed you a photograph. Do
17 you recognize what that depicts?

18 A Yes.

19 Q What does it depict?

20 A Me and Kenny Berkowitz.

21 Q And is that a fair and accurate representation
22 of you and Kenny Berkowitz?

23 A Do you mean is the picture us?

24 Q Yes.

25 A Yes.

1 MR. YANNETTI: I would offer that, Your Honor.

2 THE COURT: Okay.

3 (Whereupon, photograph was entered and marked as
4 Exhibit No. 55 in Evidence.)

5 THE COURT REPORTER: Exhibit 55.

6 MR. YANNETTI: May that be published to the
7 jury on the screen, Your Honor?

8 THE COURT: Sure.

9 BY MR. YANNETTI:

10 Q So, Mr. Albert, that's obviously you on the
11 right and Kenny Berkowitz on the left?

12 A Correct.

13 Q Have you seen that photo before?

14 A I believe I've seen it.

15 Q Do you recall when?

16 A I believe that's my fundraiser for when I was
17 running for select board, the event that I spoke of
18 earlier.

19 Q Okay. And when would it have been that you
20 saw that photograph?

21 A I'm not sure. I don't know if it was on my
22 Facebook page when I was running for select board. It
23 looks familiar.

24 Q Has Mr. Lally shown you that photograph?

25 A No.

1 Q Has he informed you that the defense would be
2 introducing that photograph during this trial?

3 A Nope.

4 MR. YANNETTI: You can take the photo down,
5 Mr. Bates, and the lights can go on.

6 BY MR. YANNETTI:

7 Q You would agree with me that one of your
8 functions as a selectman is to oversee public safety in
9 the town?

10 A Yes.

11 Q And you would agree that the police department
12 is a key component of public safety in the town of
13 Canton?

14 A Yes.

15 Q So part of your duties as a town selectman is
16 to oversee the Canton Police Department; correct?

17 MR. LALLY: Objection, Your Honor.

18 THE COURT: I'll let him have it. Is that one
19 of your duties, sir?

20 A I believe so. I'm new at them. I'm recently
21 elected, so I'm just going through it. But, yeah, I
22 believe so.

23 BY MR. YANNETTI:

24 Q And you became a town selectman shortly after
25 Kenny Berkowitz retired; correct?

1 A I'm not sure when Kenny retired.

2 Q But you would agree with me that Kenny
3 Berkowitz has both personal and professional
4 relationships with you and members of your family;
5 correct?

6 A Can you rephrase that?

7 Q You would agree with me that the former Canton
8 Police Chief, Kenny Berkowitz, has both personal and
9 professional relationship with you and members of your
10 family?

11 MR. LALLY: Objection, Your Honor. It's the
12 same question.

13 THE COURT: No. No. Go ahead and answer
14 that.

15 A I'm not sure I agree with that question.

16 BY MR. YANNETTI:

17 Q Well, your brother Kevin Albert worked under
18 Chief Berkowitz; correct?

19 A Correct.

20 Q Would you consider that to be a professional
21 relationship?

22 A With them two, yes.

23 Q And your brother Brian Albert attended
24 Chief Berkowitz's retirement party; did he not?

25 A I have no idea.

1 Q But your brother Brian is also a friend of
2 Kenny Berkowitz; is he not?

3 A He may be. I'm not sure.

4 Q And as far as your, you know, ties to the
5 Canton Police, you would agree with me that Lieutenant
6 Michael Lank is a member of the Canton Police
7 Department; correct?

8 A He is.

9 Q And you've been friends with him for years;
10 correct?

11 A I've known him for a long time.

12 Q You've been childhood friends with him since
13 the age of 12; correct?

14 A Somewhere around there. Maybe earlier.

15 Q And you're tight with him?

16 A I don't know if I'd call it tight.

17 Q He's not an enemy of yours; is he?

18 A Oh, God, no.

19 Q No. He's a friend of yours; correct?

20 A Sure.

21 Q And does "sure" mean yes?

22 A Yes.

23 Q Now, your older brother, Brian, you've already
24 testified, was a Boston Police officer for years;
25 correct?

1 A Correct.

2 Q And he achieved some notoriety on a television
3 show; did he not?

4 MR. LALLY: Objection.

5 THE COURT: Sustained.

6 Q He was in the fugitive unit?

7 A Correct.

8 Q And you know that your brother Brian was also
9 a trained boxer; correct?

10 MR. LALLY: Objection.

11 THE COURT: Sustained.

12 BY MR. YANNETTI:

13 Q Brian is a lot bigger guy than you are;
14 correct?

15 MR. LALLY: Objection.

16 THE COURT: Sustained.

17 BY MR. LALLY:

18 Q Your brother Brian Albert is someone who is
19 close to his family; correct?

20 A Yes.

21 Q And, when I say "his family, I'm talking about
22 not just his, you know, wife and children, but also his
23 extended family. Correct?

24 A Yes.

25 Q You are part of his family, obviously;

1 correct?

2 A Yes.

3 Q And your son Colin is part of his family;
4 correct?

5 A Yes.

6 Q The Albert family is close; correct?

7 A Yes.

8 Q You all essentially grew up in Canton;
9 correct?

10 A Correct.

11 Q And you hung out with each other growing up;
12 correct?

13 A We were siblings, so --

14 Q Of course.

15 A -- yes.

16 Q And you still hang out with each other quite
17 often; correct?

18 A Like all of us?

19 Q In various combinations.

20 A We have different relationships with my
21 siblings.

22 Q Sure. But you see some more than others. But
23 you hang out with your family; do you not?

24 A Yeah. Mostly during holidays.

25 Q And you go out for drinks together; correct?

1 A Occasionally.

2 Q And you're protective of each other; correct?

3 A Like most families.

4 Q And if someone had a dispute with a member of
5 the Albert family, Brian wouldn't be happy about that;
6 correct?

7 MR. LALLY: Objection.

8 THE COURT: Sustained.

9 BY MR. YANNETTI:

10 Q You know that Brian would stick up for your
11 kids; correct?

12 MR. LALLY: Objection.

13 THE COURT: Sustained.

14 BY MR. YANNETTI:

15 Q Your son Colin is particularly close to your
16 brother Brian; is he not?

17 MR. LALLY: Objection.

18 THE COURT: I'll let him have that.

19 Do you know?

20 A Yes.

21 BY MR. YANNETTI:

22 Q In fact, your son Colin was a football player
23 through high school; was he not?

24 A Yes.

25 Q What was his number?

1 A In high school?

2 Q Yes.

3 A Thirty-four, I believe.

4 Q And was that for 34 Fairview?

5 A I don't think so.

6 Q Now, you testified you moved to Maple Street
7 in Canton not long before January 28th of 2022;
8 correct?

9 A Correct.

10 Q And before that you lived at 7 Meadows Ave. in
11 Canton?

12 A Correct.

13 Q And that was when John O'Keefe was your
14 neighbor; correct?

15 A Correct.

16 Q I believe you testified he was a couple of
17 houses away from you?

18 A Yes.

19 Q And he was your neighbor for a series of
20 years; was he not?

21 A Yes.

22 Q While he was living in the neighborhood, you
23 knew that he was working as a Boston Police officer;
24 correct?

25 A Correct.

1 Q And you were familiar with him; correct?

2 A What do you mean? Can you -- what do you mean
3 "familiar"?

4 Q You knew who he was. You know, you became
5 familiar with him.

6 A Yeah. He was my neighbor. I knew who he was.

7 Q Right. And you knew that he was not married;
8 correct?

9 A Yes.

10 Q And at a certain point you knew that he was
11 dating Karen Read?

12 A Yeah, at some point.

13 Q Now, you would agree with me that your family
14 has a police background, sir; correct?

15 A I wouldn't agree with that statement.

16 Q Two of your brothers are or were police
17 officers; correct?

18 A Out of seven of us, yes.

19 Q And you knew friends of your brothers who were
20 also police officers or in law enforcement; correct?

21 A Correct.

22 Q And you had already testified that you know
23 some members of the Canton Police Department; correct?

24 A Correct.

25 Q And you socialized with police officers; did

1 you not?

2 A Have I? Sure.

3 Q You've been to bars with police officers;
4 correct?

5 A Correct.

6 Q And you've drank with police officers; right?

7 A Sure.

8 Q And you were friendly with police officers;
9 correct?

10 A Yes.

11 Q And with regard to -- I'd like to ask you some
12 questions about people specifically connected to this
13 case. We've established that Lieutenant Lank has been
14 a friend of yours for years; correct?

15 A Yes.

16 Q We've established that you know former Police
17 Chief Kenneth Berkowitz in such a way that you feel
18 comfortable calling him before this jury Kenny
19 Berkowitz; correct?

20 A I know Kenny, yup.

21 Q And he actually donated to your campaign when
22 you were running for town selectman; correct?

23 A Correct.

24 Q And you also knew Michael Proctor prior to
25 January 29th of 2022; correct?

1 A Correct.

2 Q You've attended social events together with
3 him; have you not?

4 MR. LALLY: Objection.

5 THE COURT: I'll let that one question.

6 A A couple.

7 BY MR. YANNETTI:

8 Q So at some point Michael Proctor came to
9 question you; did he not?

10 A Along with another trooper, correct.

11 Q And at the point in time when Michael Proctor
12 came to question you, you knew who he was; correct?

13 A Yes.

14 Q You knew him by face; correct?

15 A Correct.

16 Q And you knew him by name; correct?

17 A Correct.

18 Q There was no need for Michael Proctor to
19 formally introduce himself to you; was there?

20 MR. LALLY: Objection.

21 THE COURT: Sustained.

22 BY MR. YANNETTI:

23 Q What did he say when he first walked in the
24 door in terms of introductions?

25 MR. LALLY: Objection.

1 THE COURT: Sustained.

2 MR. YANNETTI: May we be seen at sidebar,
3 Judge?

4 THE COURT: Sure.

5 (Whereupon, there was a sidebar conference as
6 follows:)

7 MR. YANNETTI: I guess I'd like to hear the
8 basis of the objection or the Court's ruling
9 because I don't understand why this isn't --

10 THE COURT: The objection?

11 MR. LALLY: Hearsay.

12 MR. YANNETTI: It's not hearsay. I'm not
13 offering it for the truth of the matter which is
14 that they needed to be formally introduced. I'm
15 offering to show that that is not true. So you
16 know, it is an interview that he had with the lead
17 investigator on this case where the lead
18 investigator characterized it as they had to
19 formally introduce each other, you know, before
20 they spoke. I'm just impeaching that.

21 MR. LALLY: You're impeaching the trooper who
22 didn't even write the report that you're
23 referencing, the civilian witnesses? Is that what
24 you're doing?

25 MR. YANNETTI: I'm impeaching the

1 investigation here and the attempt to cover up the
2 nature of the relationships. Part of the handicap
3 is the Commonwealth hasn't called Trooper Proctor
4 yet.

5 THE COURT: So you can do it after they call
6 Proctor.

7 MR. YANNETTI: Which would mean I would have
8 to recall several witnesses.

9 THE COURT: We'll see. But I'm not letting it
10 in at this point for the reason I just stated.
11 Okay? So they haven't called him yet.

12 MR. YANNETTI: But I'm not allowed to ask what
13 he told the state police or what the state police
14 told him?

15 THE COURT: What do you expect the answer to
16 be, what Proctor said to him?

17 MR. YANNETTI: I don't know what the answer is
18 going to be. I mean, it could --

19 THE COURT: The Commonwealth's objection is
20 sustained.

21 (Whereupon, the sidebar conference concluded.)

22 BY MR. YANNETTI:

23 Q Without getting into the precise wording,
24 you'd agree with me that there was no need for
25 Michael Proctor to formally introduce himself to you

1 for that meeting; correct?

2 A Yes.

3 Q He didn't need to say how do you do, I am
4 Michael Proctor; correct?

5 A No.

6 Q No.

7 Do you consider the Proctors to be the
8 Albert's second family?

9 MR. LALLY: Objection.

10 THE COURT: Do you consider that?

11 A No.

12 Q You are aware that there are members of the
13 Proctor's family who consider -- who have posted
14 publically that the Alberts --

15 MR. LALLY: Objection.

16 Q -- are their second family; correct?

17 THE COURT: So the objection is sustained and

18 I'm going to strike that question. Disregard it.

19 BY MR. YANNETTI:

20 Q Now, at the time that Trooper Michael Proctor
21 showed up to question you, sir, you knew that
22 Karen Read had been charged in this case; correct?

23 A Yes.

24 Q And you knew that John O'Keefe had been found
25 dead on your brother's lawn; correct?

1 A Correct.

2 Q Did it occur to you that it was odd that the
3 state police sent somebody from the Proctor family to
4 interview you --

5 MR. LALLY: Objection.

6 Q -- and your wife on February 10th of 2022?

7 THE COURT: Sustained.

8 BY MR. YANNETTI:

9 Q Now, you've testified that on January 28th of
10 2022, that day, that Friday that you were working,
11 John O'Keefe stopped into D&E Pizza, your shop;
12 correct?

13 A Correct.

14 Q And there was discussion about whether you
15 would be going out that night and, if so, where you
16 would be; correct?

17 A Correct.

18 Q Now, you've previously on direct examination
19 characterized your relationship with him as being
20 friends; correct?

21 A Correct.

22 Q It's fair to say however that prior to
23 January 28th of 2022 you had never exchanged personal
24 information with John O'Keefe; correct?

25 A You mean, I'm sorry, you mean like phone

1 numbers or --

2 Q Yeah. You didn't have his cell number prior
3 to that day?

4 A No, I didn't.

5 Q And at that point in time he had lived in your
6 neighborhood for four to five years; correct?

7 A Correct.

8 Q So I believe you've testified that that night
9 after working you went out around 10 minutes of
10 10:00 p.m.?

11 A Roughly.

12 Q Before going out did you have anything
13 alcoholic to drink?

14 A I think I may have had a beer at the pizza
15 shop. I don't remember exactly.

16 Q So you have a refrigerator there that you can
17 keep drinks cold; correct?

18 A Among other things.

19 Q And you do have beers in that frig --

20 A Sometimes.

21 Q -- for personal use?

22 A Sometimes.

23 Q Do you know how many beers that you would have
24 had before going out?

25 A No.

1 Q And would you have drank that beer as you were
2 cleaning up at the end of the night?

3 A Probably.

4 Q Did you have anything to eat at the pizza
5 shop?

6 A No.

7 Q When did you last eat before you went out at
8 9:50 or so?

9 A When did I last eat?

10 Q Yes.

11 A It was a long time ago. I'm not sure.

12 Q And you knew that your wife, Julie, was
13 starting the night at C.F. McCarthy's; correct?

14 A Yes.

15 Q And you couldn't meet her there because you
16 were still working; right?

17 A Correct.

18 Q But at some point you heard that Julie and
19 others were headed to the Waterfall; correct?

20 A Yes.

21 Q And that was where you planned to go after you
22 closed up D&E Pizza?

23 A Correct.

24 Q And with regard to the time that you left,
25 9:50 or so is your best estimate of when you're closing

1 the doors and walking over to the Waterfall?

2 A Yes.

3 Q And the Waterfall is a short walk to D&E
4 Pizza?

5 A Yes.

6 Q Maybe about three minutes?

7 A About that.

8 Q And your plan was to walk there that night;
9 correct?

10 A Correct.

11 Q You had not taken a car to D&E Pizza anyway;
12 right?

13 A I don't believe so.

14 Q So what time did you get to the Waterfall?

15 A Shortly before 10:00. I don't know exactly.

16 Q All right. And I believe you've testified
17 that John O'Keefe and Karen Read were not there when
18 you arrived; right?

19 A Correct.

20 Q And the food that you ordered, do you remember
21 what appetizers you would have gotten?

22 A Probably like potato skins and some sort of
23 chicken tenders, I would guess. It's two years ago, so
24 I don't remember exactly.

25 Q And did you order a drink along with the

1 appetizers?

2 A I believe so.

3 Q All right. And that would have been the
4 Miller Lite that you talked about?

5 A Correct.

6 Q Then not long after you got there Brian Albert
7 and Brian Higgins showed up; correct?

8 A Correct.

9 Q And you had met Brian Higgins prior to that
10 night?

11 A Yes.

12 Q In fact, you had testified that you had seen
13 him around quite a bit; correct?

14 A A few times.

15 Q And you knew him, I believe your testimony
16 was, from him working inside the Canton Police Station;
17 correct?

18 A I knew that he worked there.

19 Q Did you testify on direct examination, quote,
20 "I knew him from working inside Canton P.D."?

21 A Yes.

22 Q And you've been inside Canton Police; correct?

23 A Maybe twice in my life.

24 Q You knew that Brian Albert, your brother, and
25 Brian Higgins were friends; correct?

1 A I knew they knew each other.

2 Q So are you saying that they were
3 acquaintances?

4 A No. I guess they're friends.

5 Q You guess they're friends?

6 A Yeah, they're friends.

7 Q Was there something confusing about my
8 question the first time I asked it?

9 MR. LALLY: Objection.

10 THE COURT: Sustained.

11 BY MR. YANNETTI:

12 Q In any case, would you agree that shortly
13 before Brian Albert and Brian Higgins arrived at the
14 Waterfall or shortly after they did there was a couple
15 whom -- you know, I believe you called them a Greek
16 couple because their last name is difficult to
17 pronounce for everybody. But do you remember them
18 being there?

19 A Yes.

20 Q All right. If I mention the name Kolokithas,
21 does that ring a bell or do you --

22 A That's them, yeah.

23 Q That's them. Okay.

24 And the whole group was either standing or
25 sitting around a high-top table?

1 A Correct.

2 Q And at 9:45 p.m. you texted John O'Keefe while
3 you were at the Waterfall; correct?

4 A Correct.

5 Q Would you agree with me that the language of
6 your text was, quote, "Get over here or I'll fuck up
7 your lawn," end quote?

8 A That was one of the texts.

9 MR. YANNETTI: If I may just have a moment?

10 THE COURT: Sure.

11 MR. YANNETTI: May I approach?

12 THE COURT: Sure.

13 MR. YANNETTI: I'm sorry. I don't think I
14 asked to approach.

15 THE COURT: No. That's fine.

16 MR. YANNETTI: Thank you.

17 BY MR. YANNETTI:

18 Q I've placed a document before you, sir. Take
19 a look at that and tell the jury whether or not you
20 recognize it.

21 A Yeah, I recognize it.

22 Q What is it?

23 A It's a text message, two text messages.

24 Q Okay. And who are the participants in that
25 text message exchange?

1 A Me and John.

2 Q And what is it that you said and at what time?

3 A So the first one --

4 MR. LALLY: Your Honor, objection. May we
5 approach?

6 THE COURT: Okay.

7 Can I see that, please?

8 THE WITNESS: Yeah.

9 (Whereupon, there was a sidebar conference as
10 follows:)

11 MR. LALLY: So, Your Honor, the entirety of
12 the text communication between Mr. O'Keefe and
13 Mr. Albert is already in evidence. It's in Exhibit
14 48, pages 7 through 12. So I don't know why we are
15 putting in separately just one portion of that text
16 communication when the entire communication from
17 that day is already in.

18 THE COURT: Okay. So we don't need to put it
19 in, but does your IT person have it all queued up?

20 MR. LALLY: He has it, yes. He has that
21 queued up.

22 MS. LITTLE: We don't have electronic versions
23 for any of the stuff that you send. So it's hard
24 to coordinate and know exactly what's been --

25 THE COURT: That's fine. So we'll mark this

1 piece of paper for identification, please.

2 THE COURT REPORTER: "T" for Identification,
3 Your Honor.

4 (Whereupon, text excerpt from Exhibit 48 was
5 entered and marked as Exhibit "T" for
6 Identification.)

7 THE COURT: So I have to give my digital
8 instruction. I have to give my digital evidence
9 instruction that I gave the other day --

10 MR. LALLY: Oh, that's fine.

11 THE COURT: -- before it comes in. So just
12 preface it so the jurors know when -- we don't need
13 specifically this piece of paper.

14 MR. YANNETTI: Yes. We don't. That's all I
15 want to publish.

16 THE COURT: All right. So just let them --
17 just so that they know that they have it, just like
18 you all were doing with the different --

19 MR. LALLY: Exhibit 48, yes.

20 THE COURT: Ms. Little, do you have the exact
21 -- oh, you said the exact exhibit.

22 MR. LALLY: It's on the table right over
23 there.

24 THE COURT: All right. So just say the
25 exhibit and where this is and publish it. Just let

1 me give that quick instruction.

2 MR. YANNETTI: Will do.

3 MR. LALLY: Thank you.

4 (Whereupon, the sidebar conference concluded.)

5 THE COURT: All right. Jurors, I'm going to
6 instruct you again, as I did yesterday. So before
7 you consider any electronic communication in your
8 deliberations you must first find that it's more
9 likely true than not true that the person who
10 either authored or sent or created or transmitted
11 the communication was in fact John O'Keefe and this
12 witness, Chris Albert. If you do not find that
13 it's more likely true than not that John O'Keefe
14 sent one or that this witness was the person who
15 sent the message or transmitted it, then you may
16 not consider it in deciding this case.

17 So you have clarification then, Mr. Yannetti?

18 MR. YANNETTI: I do, yes. And, just for the
19 record and for the jurors' edification, this is
20 part of Exhibit 48 which is already in evidence,
21 but I would ask that this particular exchange be
22 posted on the screen with the Court's permission.

23 THE COURT: Sure.

24 (Whereupon, "T" for Identification was published on
25 screen.)

1 BY MR. YANNETTI:

2 Q And, sir, you'd agree that the -- when you say
3 it was two text messages, they're both with regard to
4 the same subject; correct?

5 A What do you mean?

6 Q Well, one says "Get over here"; right?

7 A (No response.)

8 Q And then the second is a continuation of that,
9 "if not I'm going to fuck up your lawn"; correct?

10 A So you mean that's to tell him to come over to
11 the Waterfall?

12 Q Right.

13 A Okay. I just didn't understand what you
14 meant.

15 Q That's fine. So you're telling John O'Keefe
16 this; correct?

17 A Yeah, I'm telling him to come over and meet
18 us.

19 Q All right. And that little emoji, that face
20 emoji after "if not I'm going to fuck up your lawn,"
21 that's --

22 A Yes, it's a laughing face.

23 Q Right. So you're --

24 A It's a joke.

25 Q So you're just saying -- you know, you're

1 cracking up --

2 A Yeah, it's a joke.

3 THE COURT REPORTER: One at a time, please.

4 THE WITNESS: Sorry. Sorry.

5 MR. YANNETTI: Okay.

6 THE WITNESS: I apologize.

7 Okay. We can take that down.

8 BY MR. YANNETTI:

9 Q At about 10:45 p.m. or so, I believe you
10 testified that that was when John O'Keefe walked into
11 the bar with his girlfriend, Karen Read?

12 A That's what I thought, yeah.

13 Q Would you agree with me that between the time
14 you arrived and the time you eventually left that you
15 did go up to the bar within that establishment a few
16 times?

17 A I'm sure I did.

18 Q And bought a few rounds of drinks?

19 A I'm sure.

20 Q Including that one round of Fireball shots?

21 A Correct.

22 Q What was the state of your sobriety when John
23 and Karen arrived?

24 A Probably fine. Fine.

25 Q All right. You didn't fee; like intoxicated

1 --

2 A No.

3 Q -- or unable to, you know, perceive what's
4 going on? You were still in control of your faculties?

5 A Yes.

6 Q And is it true that after John and Karen
7 arrived that your wife, Julie, didn't want to stay any
8 longer or too much longer?

9 A She didn't want to. She had a headache, so
10 she wanted to go home.

11 Q Right. And by that point in time you had been
12 there about an hour, maybe a little less?

13 A When Karen and John arrived?

14 Q Right.

15 A Yeah, about an hour.

16 Q And you were having fun?

17 A Sure.

18 Q And, so, Julie drove home, but you stayed;
19 correct?

20 A Correct.

21 Q All right. And in terms of Karen Read's
22 drinking, as far as you could see, she had that glass
23 that she came in with that appeared to have a clear
24 liquid in it; correct?

25 A Correct.

1 Q And I believe you said either a lime or a
2 lemon?

3 A I thought I said a lime, but yeah.

4 Q Okay. And you assumed that that was, you
5 know, vodka and soda water or vodka and some type of
6 mixer, correct, that was clear?

7 A Correct.

8 Q And if she was -- while drinking that night,
9 if she was mixing in water in between alcoholic drinks,
10 it would have been impossible for you to discern which
11 drinks were water and which drinks were vodka; correct?

12 A Yeah, I would have no way.

13 Q You can't tell that by eyeballing the drink;
14 right?

15 A No.

16 Q Because both liquids are clear?

17 A Yes.

18 Q And, in order to discern that, you'd actually
19 have to be given a sip to see; right?

20 A Okay.

21 Q But, in any case, Karen did not appear to be
22 under the influence of alcohol to you?

23 A I didn't notice anything.

24 Q She wasn't stumbling; correct?

25 A Nope.

1 Q She wasn't swaying?

2 A I didn't notice it.

3 Q She didn't appear to be unbalanced; correct?

4 A I didn't notice anything.

5 Q She wasn't slurring her words?

6 A Nope.

7 Q She wasn't talking gibberish; correct?

8 A No.

9 Q She was engaging in normal conversation and
10 she appeared to be under control?

11 A Yeah.

12 Q And would you agree with me that she also
13 appeared to be affectionate with John O'Keefe?

14 A I wasn't really watching her interactions too
15 much to be honest.

16 Q All right. But, in any case, you never saw
17 any arguing between the two of them?

18 A I wasn't really paying attention to their
19 interactions.

20 Q Okay. And you didn't perceive any tension
21 between them; correct?

22 A I didn't notice anything irregular.

23 Q Okay. And from your observations of
24 Karen Read that night -- and you were there probably
25 over two hours; were you not?

1 A Total, about that, yeah.

2 Q From your observations of Karen that night,
3 you would have had no problem with her driving a car;
4 correct?

5 A I wouldn't even have thought about it.

6 Q Okay. Now, would you agree with me that of
7 the group that you had met out that you were the last
8 person to leave the Waterfall on January 29th of 2022?

9 A I believe so.

10 Q Now, you previously -- well, you testified on
11 direct examination today, I believe, that you thought
12 you got home between 12:05 and 12:10 a.m. on January
13 29th; correct?

14 A That's what I remember.

15 Q If I suggested to you that you didn't even
16 leave the bar until 12:13 a.m., would you quarrel with
17 that?

18 A Would I quarrel with it?

19 Q Yes.

20 A No, I guess not. I mean --

21 Q All right. And is your memory exhausted as to
22 the precise time that you left the bar?

23 A Is it exhausted?

24 Q Right. In other words, do you not remember
25 the precise time that you left the bar that early

1 morning?

2 A It's over two years ago. I don't know the
3 precise time. That's why I said between 12:05 and
4 12:10.

5 Q Okay. That answers my question. Thank you.

6 MR. YANNETTI: Could we have exhibit -- well,
7 with the Court's permission, can I publish Exhibit
8 53? It's a short clip from the Waterfall.

9 THE COURT: Sure.

10 MR. YANNETTI: I think we need to back it up
11 and then start it.

12 Thank you. If we can pause it for a second,
13 please?

14 (Whereupon, the video was played and paused.)

15 BY MR. YANNETTI:

16 Q Mr. Albert, you would agree with me this was
17 clearly the end of the night?

18 A Sure.

19 Q The lights are all on at this point?

20 A Yes.

21 Q The bar appears to have largely emptied out?

22 A Yes.

23 MR. YANNETTI: Okay. Continue, please.

24 (Whereupon, the video was played.)

25 MR. YANNETTI: Pause it.

1 (Whereupon, the video was paused.)

2 MR. YANNETTI: There we go. My co-counsel is
3 much better at this than I am.

4 BY MR. YANNETTI:

5 Q Do you know who that person is that's leaving
6 the bar at this point at 12:13 and 43 a.m.?

7 THE COURT: Mr. Yannetti, it might be better
8 without that spotlight.

9 Can you see it now?

10 THE WITNESS: Yes.

11 A I believe it's me.

12 MR. YANNETTI: Continue, please.

13 (Whereupon, the video was played.)

14 MR. YANNETTI: Okay. You can take that off
15 the screen.

16 BY YANNETTI:

17 Q So having now viewed that video with the time
18 stamp of 12:13 and about 43 seconds or so, does that
19 refresh your memory as to when you left the Waterfall?

20 A Yes.

21 Q That would mean it would have been impossible
22 for you to get home to Maple Street by 12:05 or 12:10;
23 correct?

24 A Correct.

25 Q Now, it was about maybe a seven-minute walk

1 home; would you agree with me?

2 A From Waterfall to Maple, no. I'd said seven
3 minutes from D&E to Waterfall. Waterfall to Maple is
4 probably less than five minutes.

5 Q So it's your testimony that D&E is closer to
6 the Waterfall than the Waterfall is Maple Street?

7 A D&E is farther away from Waterfall than --
8 farther away from where I live than the Waterfall is.

9 Q No. I understand that.

10 A I'm not following you. I'm sorry.

11 Q I'll try to clarify. I don't mean to be
12 confusing here. I'm not asking about the distance
13 between D&E and your home. I'm trying to compare or
14 ask you to compare the distance between D&E and the
15 Waterfall and then the Waterfall and your home. Do you
16 see the difference?

17 So would you agree with me that your home is
18 farther from the Waterfall than D&E Pizza is from the
19 Waterfall?

20 A I don't follow you. I'm sorry.

21 Q Okay. So let's take it step by step. D&E
22 Pizza to the Waterfall, are they on the same street?

23 A Yes.

24 Q How many establishments, if you know, are
25 between D&E Pizza and the Waterfall?

1 A Just a few.

2 Q Okay. So it's a very short walk from D&E
3 Pizza to the Waterfall --

4 A Yes.

5 Q -- correct?

6 Your home on Maple Street is not on the same
7 street as the Waterfall; correct?

8 A It's off of the same street.

9 Q But it's not on the same street?

10 A No.

11 Q And your home on Maple Street is farther from
12 the Waterfall than D&E Pizza is to the Waterfall; is it
13 not?

14 A Correct.

15 Q Okay.

16 A I didn't understand it earlier.

17 Q No. I know it. I'm trying to work through
18 this because -- again, I'm not trying to trick you
19 here. I just want to get the answer.

20 So you would agree with me that it would take
21 you longer to walk home from the Waterfall than it
22 would take you to walk to the Waterfall from D&E Pizza?

23 A Correct.

24 Q All right. And I believe you said that one
25 walk was seven minutes and one walk was maybe less than

1 five minutes; correct?

2 A Yes.

3 Q All right. The seven-minute walk would have
4 been the walk home as opposed to the walk to the
5 Waterfall; correct?

6 A Yes.

7 Q All right. So you have agreed that you left
8 the bar at 12:13, almost 12:14 according to the video
9 and it would have taken you about seven minutes to walk
10 home; correct?

11 A Not exactly sure how --

12 THE COURT: Can I see counsel at sidebar?

13 (Whereupon, there was a sidebar conference as
14 follows:)

15 THE COURT: So you started out with the seven
16 minutes. What he testified to was it was seven
17 minutes from D&E, home.

18 MR. YANNETTI: No. I know. And then he
19 agreed with. He said that it was seven minutes
20 from --

21 THE COURT: When you said "seven minutes,"
22 that's how long it takes him to get home at night.
23 And that's why --

24 MR. YANNETTI: Oh. So he was confused about
25 what I was --

1 THE COURT: And you were confused.

2 MR. YANNETTI: Okay. I thought we were on the
3 same page at that point.

4 THE COURT: No. He's already testified "it
5 took me five minutes to get home."

6 MR. YANNETTI: Okay. All right.

7 THE COURT: I'm just afraid that now
8 everything that we've heard --

9 MR. YANNETTI: That's fair enough, Your Honor.
10 I appreciate that.

11 THE COURT: And that's why he didn't give it
12 to you just then.

13 MR. YANNETTI: I understand. Thank you for
14 the help.

15 THE COURT: Okay.

16 MR. YANNETTI: Just on an issue that came up
17 earlier, Your Honor -- I know it's been excluded as
18 of now -- we've shown this previously. This was
19 Michael Proctor's mother making that comment, and
20 Chris Albert is the one that is publishing it in
21 October of 2019. So he's essentially publishing
22 the photo and she's friends with him and has
23 commented on it. So he clearly would have seen it.

24 THE COURT: All right. So the ruling stands,
25 but I'll mark this for identification.

1 MR. YANNETTI: Thank you.

2 (Whereupon, the sidebar conference concluded.)

3 THE COURT REPORTER: That will be "U" for
4 Identification.

5 THE COURT: Thank you.

6 (Whereupon, photograph from Facebook post was
7 entered and marked as Exhibit "U" for
8 Identification.)

9 BY MR. YANNETTI:

10 Q It's been pointed out to me that I think we're
11 not making a connection here and I think it might be my
12 fault. With regard to the timing of how long it took
13 you to go home, I believe your estimate, your best
14 estimate is about five minutes. Is that your
15 testimony? And, when I say "home," I'm not talking
16 about from D&E Pizza. I'm talking about that early
17 morning when you're at the Waterfall.

18 A I assume, yeah. I'd say around five minutes,
19 I think, from the Waterfall to Maple Street.

20 Q Fair enough.

21 All right. So, now, if you're leaving the bar
22 at like close to, you know, 12:14, as indicated on the
23 video, you're getting home somewhere around 12:19-
24 12:20; correct?

25 A Roughly, yeah.

1 Q And what were you wearing that night?

2 A Blue jeans, sneakers, I think, and a
3 sweatshirt.

4 Q Okay. And it had started to snow by that
5 point?

6 A A little bit.

7 Q So the ground was a little bit either slushy
8 or wet?

9 A Not slushy, but it could have been wet.

10 Q Could have been wet.

11 And the snow had not yet started to
12 accumulate, or had it?

13 A It didn't start.

14 Q All right. So, you know, you're walking home.
15 But it was cold; correct?

16 A Correct.

17 Q And would you agree that in the best case
18 scenario you might have had a little bit more clothing
19 on for that cold walk home?

20 A I think I had a sweatshirt on.

21 Q Right. But you could have used something
22 else, right, in light of the weather?

23 A Probably.

24 Q All right. Because you had testified that by
25 the time you got home you were pretty cold; right?

1 A Correct.

2 Q You hadn't -- you know, if it had been about a
3 five-minute walk, that was enough time for you to walk
4 in almost shivering; correct?

5 A Sure.

6 Q And given that there was precipitation, you
7 know, the snow had started, the sweatshirt would absorb
8 the moisture as oppose to repel it; correct?

9 A Sure.

10 Q And so you were wet as well when you walked
11 in; right?

12 A Sure.

13 Q And by that point in time you were tired;
14 correct?

15 A I don't remember if I was tired, but --

16 Q Okay.

17 A I don't remember if I was tired at that point.

18 Q Okay. You had worked all day?

19 A Correct.

20 Q Till late in the day, actually into the
21 evening; correct?

22 A Correct.

23 Q Taking pizzas in and out of a hot oven?

24 A Correct.

25 Q As well as other food that you serve as well;

1 correct?

2 A Yup.

3 Q And you're now -- and, by the way, you'd had a
4 couple of drinks or a few drinks, whatever it was, at
5 the Waterfall; correct?

6 A Correct.

7 Q And you decided not to go to your brother
8 Brian Albert's house; correct?

9 A Correct.

10 Q That was in part because you weren't up for
11 the continued partying at that point; correct?

12 A Yeah. I just wanted to go home.

13 Q Right.

14 And, so, when you got home, would you agree
15 with me that your first priority would have been
16 getting out of the wet clothes that you were in?

17 A Correct.

18 Q And where would you have done that within your
19 home?

20 A In my bedroom.

21 Q And is this a townhouse or is it a
22 freestanding residence?

23 A It's a condo, condominium.

24 Q Condominium. How many floors?

25 A There's three floors.

1 Q And your bedroom is on the top floor?

2 A Correct.

3 Q And the entrance is ground level?

4 A Correct.

5 Q When you first entered the home in those
6 clothes, where was your wife, Julie?

7 A Upstairs in the bedroom?

8 A And was she already washed up and ready for
9 bed?

10 A She was lying in bed.

11 Q And where did you go when you walked in the
12 ground level?

13 A I went up to the bedroom --

14 Q All right.

15 A -- took off my clothes, jumped in bed.

16 Q All right. And do you have a master bath with
17 regard to your bedroom?

18 A There's a bathroom, yeah.

19 Q All right. That would have been where you
20 brushed your teeth?

21 A Yeah.

22 Q And washed up?

23 A But I didn't. That's where I would do those
24 things, but I didn't do that.

25 Q You didn't do either of those things?

1 A No.

2 Q Okay. Did you grab a drink of water before
3 you went to bed?

4 A Nope.

5 Q So you essentially came home. And I think we
6 agreed it was around 12:20 or so, give or take a
7 minute.

8 A Roughly.

9 Q And you made a beeline for your bedroom?

10 A Correct.

11 Q Did you fall asleep shortly thereafter?

12 A Soon after.

13 Q Within five minutes or so, ten minutes?

14 A I started to doze off. I don't know exactly
15 -- I don't know exactly how soon after I feel asleep.

16 Q All right. Sometime within five or ten
17 minutes, would you say?

18 A I would say more like within 15 minutes.

19 Q Fifteen minutes. Okay.

20 So with regard to getting home. and we'll call
21 it 12:19 because I think that's more consistent with
22 what you said, and understanding that it's just an
23 estimate, if you're walking in the door at 12:19, it
24 takes you maybe a minute to get upstairs?

25 A About a minute.

1 Q You kicked off your sneakers downstairs, I
2 imagine?

3 A Maybe. I don't remember. That was a long
4 time ago.

5 Q Okay. And then you walked up two flights of
6 stairs; right?

7 A I probably ran up the stairs because I was
8 cold.

9 Q Okay. All right. So you're getting up there
10 around 12:20 or so; correct?

11 A Roughly, yeah.

12 Q And you believe that you dozed off about 15
13 minutes later, which would have made it about 12:35?

14 A Somewhere around there.

15 Q All right. Now, when you came home, you would
16 agree with me that your son Colin Albert was not home;
17 correct?

18 A Not when I first got home.

19 Q And, in fact, I think your testimony was that
20 10 minutes after you got home he opened the bedroom
21 door?

22 A I think that's what I said, yeah.

23 Q Do you want to stick with that?

24 A I'm just trying to recollect what I -- you
25 know, thinking it over, so, obviously, it was a little

1 bit longer.

2 Q Because you actually woke up when he opened
3 the bedroom door; correct?

4 A I don't think so.

5 Q Did you not just testify before this jury
6 just, I don't know, maybe an hour ago that you fell
7 asleep and that your son Colin opened the bedroom door
8 and woke you up to say goodnight?

9 A Yeah, I guess that's what I said.

10 Q Okay. And when you testified to that on
11 direct examination, that was when Mr. Lally was asking
12 you questions; correct?

13 A Correct.

14 Q And you knew that you were under oath at that
15 time; correct?

16 A Correct.

17 Q And you were trying to be as accurate as
18 possible; correct?

19 A Trying to be, correct.

20 Q All right. So, in terms of the timing of
21 this, assuming that he opened the bedroom door after
22 you already fell asleep, if you're getting home
23 upstairs to your bedroom around 12:20 and it takes you
24 15 minutes to go to bed and that's around 12:35, then
25 sometime after you're asleep, after 12:35, that's when

1 Colin opens the bedroom door; correct?

2 A I don't remember exactly.

3 Q Well, it's difficult for you to remember how
4 long you'd been asleep for when Colin opened the
5 bedroom door; correct?

6 A Correct.

7 Q You don't know if it was five minutes, ten
8 minutes, or longer; correct?

9 A I don't know exactly.

10 Q Right. But it was some time after you fell
11 asleep?

12 A To the best of my recollection.

13 Q Now, with regard to your son Colin, he
14 obviously lived in the same neighborhood as John
15 O'Keefe because that's where your family lived;
16 correct?

17 A Correct.

18 Q And back in 2022 Colin Albert was 17 years
19 old?

20 A Correct, part of the year.

21 Q And you knew that, like most teenagers, Colin
22 drank alcohol with his buddies; correct?

23 A Correct.

24 Q Can you explain for the jury who or what is
25 Nebbercracker?

1 A What is Nebbercracker?

2 Q Yes.

3 A Like the character?

4 Q That's what I'm asking.

5 A It's a character in a cartoon called Monster
6 House.

7 Q And would you agree with me that Nebbercracker
8 in the movie Monster House was this kind of old
9 curmudgeon who didn't want anybody on his lawn;
10 correct?

11 A The character, yes.

12 Q He was the get-off-my lawn guy; correct?

13 A In the movie, yeah.

14 Q What was your nickname and your wife Julie's
15 nickname for John O'Keefe?

16 A Mr. Nebbercracker.

17 Q All right. And your wife, Julie, actually had
18 John O'Keefe plugged into as contacts as Nebbercracker;
19 correct?

20 A Correct.

21 Q In fact, you were there one time when Julie
22 showed Karen her, Karen Read, her phone to show how
23 John O'Keefe was plugged in as Nebbercracker; correct?

24 A I believe so.

25 Q And this whole nickname started because of a

1 conflict that Colin Albert had with John O'Keefe;
2 correct?

3 A Not correct.

4 Q John O'Keefe complained to you about things
5 that Colin was doing?

6 A Not correct.

7 Q He would tell you that Colin used to throw
8 beer cans or beer bottles in his bushes; correct?

9 MR. LALLY: Objection, Your Honor.

10 THE COURT: You can answer that. What's your
11 answer to that?

12 A That is not correct.

13 BY MR. YANNETTI:

14 Q John O'Keefe told you that Colin used to flip
15 him off; correct?

16 A Not correct.

17 Q And say "f" you to him?

18 A Never.

19 Q Colin used to cut through his yard?

20 A Nope. That was [REDACTED].

21 Q You knew that John didn't like people cutting
22 through his yard; correct?

23 A No, I don't know that to be true.

24 Q Okay. So is it your testimony that
25 John O'Keefe invited kids to cut through his lawn all

1 the time?

2 A I don't understand. Is that a question?

3 Q It was a question. I guess let me withdraw
4 that and ask this.

5 If John O'Keefe is Nebbercracker and he's the
6 get-off-your-lawn guy, are you denying that he doesn't
7 like people cutting through his lawn?

8 A Do you want me -- can I explain?

9 Q I just ask for an answer to my question.
10 Mr. Lally will get up after I'm done and I'm sure you
11 can explain whatever you want.

12 A So no, he's not -- no.

13 Q All right. Well, you would agree with me that
14 there was a time when John O'Keefe was not home that
15 you and your wife, Julie, went to his house?

16 A That is correct.

17 Q And you entered onto his property; correct?

18 A On his front property, yes.

19 Q And you had drinks in your hand?

20 A Correct.

21 Q And you thought it would be funny to have a
22 photo taken of you and your wife with drinks in your
23 hand on his property; correct?

24 A Correct.

25 Q And you knew it would be funny because you

1 knew it would annoy him; correct?

2 MR. LALLY: Objection, Your Honor.

3 THE COURT: No. He can go ahead. Can you
4 answer that?

5 A Yeah. He was actually asking us to watch his
6 house while he was away.

7 Q Right. But that doesn't answer my question,
8 which was you -- he didn't ask you to go onto his
9 property with drinks in your hand and take a photo;
10 correct?

11 A He asked us to watch his property.

12 Q Okay. But, again, in answer to my question,
13 the answer is, no, he did not ask us to go on his
14 property and take pictures of ourselves with drinks in
15 our hand; correct?

16 A Yeah, he didn't ask me to send him a photo.

17 Q All right. And you would agree with me that
18 Nebbercracker wouldn't like a photo of somebody on his
19 lawn with drinks in his hand, in their hands; correct?

20 A The cartoon character, Nebbercracker?

21 Q Yes.

22 MR. LALLY: Objection, Your Honor.

23 THE COURT: Sustained. Next question, please,
24 Mr. Yannetti.

25 MR. YANNETTI: May I approach, Your Honor?

1 THE COURT: Yes.

2 BY MR. YANNETTI:

3 Q Mr. Albert, I have placed two photographs
4 before you. If you would take a look at those and tell
5 the jury if you recognize what they depict.

6 A I do.

7 Q What do those photos depict?

8 A It's me and my wife straddling John's fence.
9 We're giving a thumbs up in one of them and a smile in
10 another one.

11 Q Okay. And you say "John's fence." So that's
12 actually on John's property; correct?

13 A Part of it is, yeah. I mean, I don't know
14 what the easement is from the street to the fence as
15 ownership goes, but yeah. I mean, the town owns a
16 portion of it.

17 Q Would you agree with me that that photo was
18 taken in April of 2021?

19 A I'm not sure when it was taken, but if that's
20 what you have for a date, then that's fine.

21 Q Okay. Who took that picture?

22 A That's a good question. I have no idea.

23 Q Where was your son Colin that night when you
24 had that picture taken?

25 A I have no idea.

1 Q Would you agree with me that you texted those
2 photos or somebody texted those photos, whether it was
3 you or your wife Julie, to John O'Keefe?

4 A Absolutely.

5 Q All right.

6 MR. YANNETTI: May I offer those in --

7 Q And are those a fair and accurate
8 representation of the photos that you took?

9 A Yeah.

10 MR. YANNETTI: I would offer those, Your
11 Honor.

12 THE COURT: All right. Any objection?

13 MR. LALLY: No, Your Honor.

14 THE COURT: Okay.

15 (Whereupon, two photographs were entered and
16 marked as Exhibit Nos. 56 and 57 in Evidence.)

17 THE COURT REPORTER: Exhibits 56 and 57.

18 THE COURT: Thank you.

19 MR. YANNETTI: And, with the Court's
20 permission, may they be published for the jury?

21 THE COURT: Okay.

22 (Whereupon, the photograph was displayed.)

23 BY MR. YANNETTI:

24 Q With regard to that first photo, is that --
25 well, first of all, whose house is that in the

1 background?

2 A That's John's.

3 Q And that is you on the right and your wife
4 Julie on the left?

5 A Correct.

6 MR. YANNETTI: The second photo, please.

7 (Whereupon, the photograph was displayed.)

8 BY MR. YANNETTI:

9 Q That is also John's house in the background
10 there?

11 A Correct.

12 Q And, again, that's you on the right and Julie
13 on the left; correct?

14 A Correct.

15 MR. YANNETTI: Okay. We can take that photo
16 down, the last one.

17 BY MR. YANNETTI:

18 Q Now, would you agree with me that those photos
19 give some context to the text that you sent to him on
20 January 28th when you were trying to get him to come
21 out and you threatened to, quote, "fuck up his lawn if
22 he didn't come out that night"?

23 A What do you mean "give context to it"?

24 Q Well, in other words, here you are texting him
25 photos of you and your wife on his lawn; correct?

1 A Yes.

2 Q And that's a common theme that explains the
3 January 28th text where you were threatening to fuck up
4 his lawn; correct?

5 MR. LALLY: Objection, Your Honor.

6 THE COURT: Sustained.

7 BY MR. YANNETTI:

8 Q Okay. I just have one more area that I want
9 to cover with you, sir. You previously confirmed that
10 when you walked in your door on January 29th of 2022
11 after coming home from the Waterfall your son Colin was
12 not home; correct?

13 A That's correct.

14 Q At that time you had no personal knowledge of
15 where he had been that night; correct?

16 A That's correct.

17 Q Since that time you know that he was at your
18 brother Brian's house that night, Brian Albert?

19 A That's correct.

20 Q Your old home; correct?

21 A Where I grew up, yup.

22 Q And you knew that address to be 34 Fairview
23 Road?

24 A Correct.

25 Q And you knew that that was the same house

1 outside which John O'Keefe was found dead later that
2 morning; correct?

3 A Correct.

4 MR. YANNETTI: If I may have a moment, Your
5 Honor?

6 THE COURT: Sure.

7 BY MR. YANNETTI:

8 Q Just one other question, sir. When you spoke
9 to Trooper Proctor on February 10th of 2022, you agree
10 with me that you never mentioned that Colin Albert was
11 at your brother Brian's house that night; correct?

12 MR. LALLY: Objection, Your Honor.

13 THE COURT: Overruled.

14 A I don't remember.

15 MR. YANNETTI: No further questions.

16 THE COURT: Thank you.

17 Any redirect?

18 MR. LALLY: Yes, Your Honor.

19 THE COURT: Go ahead, Mr. Lally.

20 MR. LALLY: Thank you, Your Honor.

21 REDIRECT EXAMINATION

22 BY MR. LALLY:

23 Q Now, Mr. Albert, you were asked some questions
24 about being selectman. Were you a selectman at the
25 time on January 28th, 2022?

1 A No.

2 Q And about how long after that was it that you
3 became --

4 A It was sometime in April that the election was
5 over, April -- the second week in April, maybe.

6 Q So that photograph that you were shown with
7 respect to yourself and the former Chief Berkowitz of
8 the Canton Police, when was that?

9 A It was a fundraiser, so it was probably like
10 two or three weeks before the election. So March
11 something. End of March, maybe.

12 Q So well after January 28, 2022?

13 A Yes.

14 Q And you were asked some questions about your
15 brother selling the house. Now, prior to your brother
16 selling the house you had sold your house; correct?

17 A Correct.

18 Q And why was that?

19 A Why was that?

20 Q Yes.

21 A It just made more -- it made sense for us.
22 You know, it was just a financial decision.

23 Q The kids were getting older; is that correct?

24 A Yeah.

25 Q And one was in the Navy?

1 A Yup.

2 Q Another was about to go to college?

3 A Correct.

4 Q And what, if any, relation did that have to
5 your brother selling the house?

6 A So once he found out that I was selling my --

7 MR. YANNETTI: Objection.

8 THE COURT: I'm going to allow it.

9 A Once he found out I was selling my house, he
10 decided that it might be a good idea for him to sell
11 his house, his kids were getting older. So I gave him
12 my real estate's number, the guy who sold my house.

13 Q And that selling of the house, was that
14 something that you had discussed with your brother
15 prior to January 28th of 2022?

16 A Yes.

17 MR. YANNETTI: Objection.

18 THE COURT: Let's move on.

19 BY MR. LALLY:

20 Q Now, with regard -- with regard to your son
21 Colin, when he came home that night, you indicated that
22 it was about 10 minutes after. Now, is that 10 minutes
23 after you arrived home or 10 minutes after you got in
24 bed?

25 A Ten minutes after I jumped into bed.

1 Q Now, with reference to your son Colin, he came
2 home and you saw him that night; correct?

3 A When he came home?

4 Q Yes.

5 A Yeah. He just leaned his head in the door.

6 Q And, when he leaned his head in the door, did
7 you, similar to what I had asked you about Mr. O'Keefe,
8 did you observe any sort of injuries or anything like
9 that to his face?

10 A No.

11 Q You saw your son the next day as well?

12 A Yes.

13 Q Did you observe any injuries to him at any
14 point in time?

15 A No.

16 Q And you mentioned that you went over to your
17 brother Brian Albert's house and both he and
18 Mr. Higgins were there; correct?

19 A Correct.

20 Q As far as your interactions with both
21 Brian Albert and Brian Higgins that following day,
22 what, if any, injuries did you observe on them that
23 day?

24 A None.

25 Q Now, with regard to the Nebbercracker, what

1 was sort of the origination of that?

2 A It's a joke. So my son [REDACTED], who is my
3 littlest one, he was cutting across John's lawn one
4 day, coming home from school, walking. This is before
5 John had a fence that went this way, like on Pleasant
6 Street. So it would just cut off like a couple of
7 minutes. He ran across John's lawn one day. This is
8 my littlest son who, I don't even know at the time, he
9 might have been like nine or ten. I'm not sure exactly
10 how old he was. And John yelled something to him, hey,
11 kid, get off my lawn. So John was just making a joke.
12 So [REDACTED] got scared. He ran home and told my wife,
13 Julie, and then Julie in turn called, I think, called
14 Jen maybe and said, hey, John just yelled at [REDACTED].
15 And I think Jen reached out to John and John felt
16 terrible. John came down the street. John asked what
17 kind of candy [REDACTED] liked and John brought [REDACTED] a
18 bag of candy and just said, hey, I was just kidding.
19 So from that point on we called him Mr. Nebbercracker.
20 And it was a joke between John. John thought it was
21 funny.

22 Q Now, as far as those photographs that you
23 indicated that you took on his fence and sent to him
24 when he was away -- is that correct?

25 A Correct.

1 Q And that was after he had asked you to watch
2 his house while he was away?

3 A Yeah.

4 Q And how did he respond to those photographs?

5 A He thought it was hilarious. We actually
6 showed him and other people that photo, too. They
7 thought it was funny.

8 THE COURT: Are you going to wrap it up,
9 Mr. Lally?

10 MR. LALLY: Just one last question, Your
11 Honor.

12 BY MR. LALLY:

13 Q So after you sent the text message as far to
14 come over here and then made the reference to his lawn,
15 Mr. O'Keefe then came over to the Waterfall; correct?

16 A Yeah, he came over after.

17 MR. LALLY: Nothing further.

18 THE COURT: Mr. Yannetti?

19 MR. YANNETTI: Nothing further, Your Honor.

20 THE COURT: All right. You are all set,
21 Mr. Albert.

22 Jurors, we're going to take our recess.

23 Mr. Albert, just stand there and let the jurors go
24 first. It's not going to be too long. We're going
25 to end around 12:30 today.

1 (Whereupon, the jury was escorted out of the
2 courtroom.)

3 (Whereupon, the defendant was escorted out of the
4 courtroom and a recess was taken at 11:06 a.m.)

5 (Court resumes at 11:30 a.m.)

6 (Defendant present. Jury present.)

7 THE COURT: Mr. Lally, your next witness,
8 please?

9 MR. YANNETTI: May we approach before the next
10 witness is called, Your Honor?

11 THE COURT: Yes.

12 (Whereupon, there was a sidebar conference as
13 follows:)

14 THE COURT: So before you start, the court
15 officer said that you wanted to see me about
16 something that happened, and I thought we could
17 wait until 12:30 so we have time to discuss it.

18 MR. YANNETTI: That's fine. I just wanted to
19 make sure that we did it today. That's all.

20 THE COURT: So let's move with the testimony.

21 MR. YANNETTI: That's fine.

22 THE COURT: And we'll address it at sidebar.

23 MR. YANNETTI: I appreciate that.

24 (Whereupon, the sidebar conference concluded.)

25 THE COURT: All right. Mr. Lally, who is your

1 next witness?

2 MR. LALLY: Your Honor, the Commonwealth would
3 call Ms. Julie Albert to the stand.

4 THE COURT: Okay.

5 Whereupon,

6 JULIE ALBERT

7 having been first duly sworn, was examined and
8 testified as follows:

9 THE COURT: All right. Whenever you're ready,
10 Mr. Lally.

11 MR. LALLY: Thank you, Your Honor.

12 DIRECT EXAMINATION

13 BY MR. LALLY:

14 Q Good morning, ma'am.

15 A Good morning.

16 Q Could you please state your name and spell
17 your last name for the jury?

18 A Julie Albert, A-L-B-E-R-T.

19 Q And where do you live, ma'am?

20 A I live at (a) Canton.

21 Q And how long have you lived there?

22 A A little over two years.

23 Q And how long in total have you lived in
24 Canton?

25 A My whole life. Forty-eight years.

1 Q And where did you live just prior to living on
2 Maple?

3 A I lived at 7 Meadows Avenue in Canton.

4 Q And how long a period of time did you live at
5 7 Meadows Ave.?

6 A Oh, 15-plus. 20 years. About 20 years.

7 Q And do you have kids?

8 A Yes. I have three boys.

9 Q And are you married?

10 A Yes, I am.

11 Q And what's your husband's name?

12 A Christopher Albert.

13 Q And your three boys, how old are they?

14 A My oldest, Christopher, is 25; my second son,
15 Colin, is 20; and my youngest son, (c), is 16.

16 Q And do each of them -- where do they live? Do
17 they live with you?

18 A They all live with me, yes.

19 Q And your husband, does he work?

20 A Yes.

21 Q What does he do for work?

22 A He owns a restaurant in Canton.

23 Q And what's the name of the restaurant?

24 A D&E Pizza.

25 Q And where is that located?

1 A 618 Washington Street.

2 Q Now, when you lived on Meadows Avenue, can you
3 describe for the jury sort of -- if you know, about how
4 many houses are on Meadows?

5 A I would say maybe eight on each side.

6 Q And Meadows comes out to a main road; is that
7 correct?

8 A Yes, Pleasant Street.

9 Q Okay. And while you were living on Meadows
10 Avenue did you have occasion to come to know someone by
11 the name of John O'Keefe?

12 A Yes, I did.

13 Q And where did John live in relation to you?

14 A John's house was at the top of the street and
15 there's two houses -- there was two houses between
16 John's house and my house.

17 Q And, if you recall, about how long had you
18 known John O'Keefe or when did he move into Meadows?

19 A I think he moved in in 2017-ish, maybe, and
20 I've probably known him since maybe 2019.

21 Q And how would you describe sort of your
22 relationship with John O'Keefe?

23 A We were friendly. We were neighbors. You
24 know, I'd see him all the time coming in and out of the
25 street, because he lived at the top of the street, when

1 I pulled out of the street. We were friendly.

2 Q And, in addition to you knowing Mr. O'Keefe,
3 were there other sort of people that you knew that also
4 knew him?

5 A Yes.

6 Q And who were some of those people?

7 A Well, I know -- I knew John through
8 Jennifer McCabe.

9 Q And who is Jennifer McCabe to you?

10 A She's one of my closest friends.

11 Q Now, you knew that John had two children that
12 he was guardian for?

13 A Yes.

14 Q And you were familiar with both his niece and
15 his nephew as well?

16 A Yes.

17 Q Now, at some point through Mr. O'Keefe did you
18 come to know somebody by the name of Karen Read?

19 A Yes.

20 Q And when about was it that you met Ms. Read?

21 A Maybe in like 2021. Like, you know, pulling
22 in and out of the street, if they were outside. You
23 know, a couple of times out socially. Probably in
24 2021, I would say.

25 Q And, if you could, just so we're clear, do you

1 see Ms. Read in the courtroom today?

2 A Yes. Between her lawyers right over there.

3 MR. LALLY: I'd just ask the record to reflect
4 identification of the defendant by the witness.

5 THE COURT: Yes.

6 BY MR. LALLY:

7 Q Now, on some social occasions that you were
8 talking about when you would see them out, would you
9 see -- would you have occasion to socially interact
10 with Mr. O'Keefe and Ms. Read?

11 A Yes.

12 Q Is that something that like you and your
13 husband did together or was it more of a group setting
14 type of thing?

15 A No. A group setting.

16 Q And with reference to -- did you have
17 occasions where you would socially hang out or interact
18 with Mr. O'Keefe in which Ms. Read wasn't there?

19 A Um, I can only honestly remember one time, and
20 that was I don't even know if they were together at the
21 time.

22 Q And had you ever socially interacted or spent
23 time with Ms. Read separate and apart from Mr. O'Keefe?

24 A No.

25 Q Now, if I could turn your attention to

1 January 28th, 2022, do you recall that day?

2 A Yes.

3 Q And do you recall what day of the week it was?

4 A Friday.

5 Q And what, if anything, did you have plans for
6 that particular evening?

7 A The next day was my nephew's birthday, so we
8 were all -- a bunch of us were going to go out that
9 night, the night before, to a bar in Canton.

10 Q And by "the night before," you mean the night
11 before his birthday?

12 A Yes.

13 Q And that nephew, what was that nephew's name?

14 A Brian. Brian, Jr.

15 Q And, if you know, about how old was he turning
16 or how -- well, let me start with this. How old is he
17 now, if you know?

18 A He's 24.

19 Q So just turned 24 a few months ago?

20 A January, yeah.

21 Q And, so, he would have been turning, what, 22
22 at that point?

23 A Yeah.

24 Q Okay. When you say we had plans to sort of go
25 out, who is the "we"?

1 A Myself; his mother, Nicole; my niece, Caitlin;
2 and a couple of Brian's friends.

3 Q And you mean Brian, Jr.'s friends?

4 A Yes.

5 Q Okay. And, so, Brian Albert, Jr. has a mother
6 named Nicole Albert; is that correct?

7 A Yes.

8 Q Okay. And how is she sort of -- how is she
9 related to you?

10 A She's my sister-in-law. Our husbands are
11 brothers.

12 Q So your husband, Christopher, has a brother --

13 A Brian.

14 Q -- Brian. Okay.

15 And that would be sort of Brian, Sr. --

16 A Brian, Sr.

17 Q -- for lack of a better term?

18 A Yup.

19 Q Okay. Your husband, Christopher, how many
20 siblings does he have?

21 A Six.

22 Q And Brian is the oldest; is that correct?

23 A The oldest, yes.

24 Q And, so, there were plans to go out that
25 evening, the day before Brian Albert, Jr.'s birthday;

1 correct?

2 A Yes.

3 Q Okay. And what were the plans? What did they
4 sort of consist of?

5 A We were just going to go to Waterfall.

6 Q And is Waterfall -- where is that?

7 A It's a bar in Canton on Washington Street.

8 Q And from your husband's pizza shop, D&E, to
9 the Waterfall, about how far away are the two from each
10 other?

11 A Very close. I mean, two-minute steps, maybe.
12 Very, very close.

13 Q Okay. Same side of the street or opposite
14 sides?

15 A No. Opposite sides.

16 Q Okay. Now, when it came to that day, where
17 did you go? Did you go to the Waterfall first or
18 somewhere else, if you know?

19 A I went to my sister-in-law Nicole's house to
20 pick her up.

21 Q And do you know the address where your
22 sister-in-law and your brother-in-law live?

23 A 34 Fairview. Where they lived, 34 Fairview
24 Road.

25 Q And that was somewhere that you had been

1 numerous occasions before?

2 A Yes.

3 Q And, when you arrived at 34 Fairview Road, you
4 went inside the house?

5 A I think I went inside for a moment, yeah, just
6 to wait.

7 Q And do you know who, if anyone, did you see in
8 there that you knew or recognized or didn't recognize?

9 A I know my niece, Caitlin was in there, my
10 nephew, Brian. I don't -- I think -- I don't recall.
11 I don't recall who else was in there.

12 Q Your sister-in-law, Nicole, was she there?

13 A Yes. She was ready to leave.

14 Q Okay. And when you left, I'm using sort of
15 "you" in the plural, so you drove; is that correct?

16 A I drove, yup.

17 Q And who, if anyone, went along with you in
18 your car?

19 A Nicole, my sister-in-law; and Caitlin, my
20 niece. And Brian did not end up coming with us.

21 Q And, so, your nephew, Brian, for whom you
22 initially made the plans to go out and celebrate,
23 didn't end up coming?

24 A Correct.

25 Q And why was that, if you know?

1 A He just -- I don't think he was feeling up to
2 it.

3 Q And, if you know, about what time was it that
4 you picked your sister-in-law and your niece up and
5 then went to Waterfall?

6 A I don't remember exactly, but I would probably
7 say between maybe 7:30 and 8:00. Like around 7:30,
8 maybe.

9 Q Okay. And you arrive at the Waterfall. You
10 go in. If you could just explain to the jury sort of
11 when you walk into the door of the Waterfall where was
12 it that the three of you went?

13 A When you walk into the door there's a couple
14 of high-top tables, long high-top tables in front of
15 you, and we just sat down at a high-top table right
16 when you walk through the door.

17 Q Now, from your experience either that evening
18 or prior evenings, on certain nights does the Waterfall
19 have any kind of sort of entertainment?

20 A Yeah. They always have -- every week is
21 different. They have bands.

22 Q And, from your recollection, was there a band
23 there that night?

24 A Yes, there was.

25 Q And do you recall where you were seated in

1 relation to the band?

2 A I was sitting at the end of the high-top
3 table, closest to the door that you walk in, and the
4 band was to the right of me against the wall in kind of
5 like an alcove, like a little -- against the wall.

6 Q And when you went there was the band already
7 sort of set up and playing or did that happen later?

8 A I think they set up while we were there, I
9 think.

10 Q And, so, initially when you go there, do you
11 go there and just have drinks or did you eat something,
12 or what --

13 A We ate, yeah.

14 Q And while you were there, as far as -- during
15 sort of the meal portion of it, was there anyone else
16 that joined you?

17 A I know my niece's boyfriend, Tristin Morris,
18 came. I don't remember exactly when it was during
19 that, but I know he was there. And then during the
20 meal part, I don't think during the meal part anyone
21 else, I don't think.

22 Q So you recall as far as the meal part was
23 concerned it's you; your sister-in-law, Nicole; your
24 niece, Caitlin; and her boyfriend, Tristin Morris?

25 A Correct.

1 Q And, Mr. Morris, did he stay for any extended
2 period of time, or when was it that he left, if you
3 recall?

4 A I know he stayed for a little bit, but I
5 honestly can't remember what time exactly he left.

6 Q Now, your husband, was he working on that day?

7 A Yes, he was.

8 Q And had you been in communication with him as
9 to where you were going to be?

10 A Yes.

11 Q Okay. And, so, the plan was basically for him
12 to meet you at the Waterfall when he was done with
13 work?

14 A Correct, yes.

15 Q And, if you know, about what time was it that
16 your husband Christopher came over to the Waterfall?

17 A Maybe 9:30, 10:00, maybe.

18 Q And, again, ma'am, I don't want you to guess.
19 Just if you know approximate time.

20 A Yeah.

21 Q Okay. So at sometime around 9:30 or so your
22 husband, Christopher, comes over to the Waterfall?

23 A Yes.

24 Q Okay. And what, if anything, did he do when
25 he got there?

1 A He came in.

2 Q Let me ask you, when he came in did he get
3 anything to eat, anything to drink?

4 A Yeah. He probably ordered a drink and just
5 stood by the table.

6 Q And you and the people in your group, were you
7 drinking that night?

8 A Yes.

9 Q And what is it -- do you recall specifically
10 what you had to drink?

11 A I think I had just a couple of glasses of
12 wine.

13 Q And your husband, what does he -- do you
14 recall specifically what he had that night?

15 A What he would drink is Miller Lite.

16 Q Okay. And that's sort of typically what he
17 would drink --

18 A Yes.

19 Q -- when he was out?

20 A Yes.

21 Q And your sister-in-law, Nicole, do you recall
22 what she was drinking?

23 A I would assume White Claw, a White Claw.

24 Q And same question with regard to your niece,
25 Caitlin?

1 A Yes, probably White Claw as well.

2 Q Now, while you were there, who, if any -- so
3 after your husband came in, who, if anyone else, sort
4 of came in and joined the group that you were with?

5 A My brother-in-law, Brian Albert, and his
6 friend, Brian Higgins.

7 Q And, obviously, you know your brother-in-law,
8 Brian Albert; correct?

9 A Uh-hmm.

10 Q And do you know --

11 THE COURT REPORTER: Is that "yes"?

12 THE WITNESS: Yes.

13 MR. LALLY: Thank you, Madam Court Reporter.

14 BY MR. LALLY:

15 Q You just have to answer audibly "yes."

16 So did you know Mr. Higgins as well?

17 A Yes.

18 Q And how did you know Mr. Higgins?

19 A I just know him from being friends with my
20 brother-in-law.

21 Q So you know him just sort of through your
22 brother-in-law, Brian; is that correct?

23 A Yeah. Yes.

24 Q Okay. And do you know when they arrived in
25 relation to when your husband, Christopher, arrived?

1 A I don't. I don't recall.

2 Q But some point after; correct?

3 A Yes.

4 Q Then after they arrived, who, if anyone else,
5 do you recall sort of arriving and joining in your
6 group?

7 A Jennifer McCabe and Matt McCabe. And there
8 was a couple. I don't even know their name. Kolikitis
9 (phonetic). They arrived. I don't know their first
10 names.

11 Q Okay.

12 A And John and Karen arrived shortly after that.

13 Q And, just so we can clear up people, as far as
14 Jennifer McCabe, you already mentioned her. And,
15 Matthew, is that her husband?

16 A Uh-hmm. Yes.

17 Q And the other couple that you were talking
18 about or sort of guessing their names, had you ever met
19 them before?

20 A No. Nope.

21 Q Not anybody that you're particularly friends
22 with or anything like that?

23 A No. I know them, who they are from seeing
24 them maybe at a sporting event or something, but I've
25 never been introduced to them.

1 Q And, when you say sort of sporting events,
2 sporting events in relation to what?

3 A Basket -- if they were like at a basketball
4 game and I was at a game. Like I've just seen them
5 around. I'm assuming probably sporting events,
6 probably a basketball game.

7 Q And I'm sure it's probably pretty well
8 understood, but I just want to clarify. So, when you
9 say "sporting events," these are kids' sporting events?

10 A Kids' sporting events, yes.

11 Q And, so, which kids' sporting events would you
12 be at that you would see this couple that you didn't
13 know very well? Your kids or somebody else's kids?

14 A No. Jennifer McCabe's kids.

15 Q Okay. So you would go to sporting events for
16 Jennifer McCabe's kids and see this couple there?

17 A Yes.

18 Q And, if you know, about how long after
19 Brian Albert and Mr. Higgins arrived did the McCabes
20 and this other couple arrive?

21 A Really, I don't remember exactly.

22 Q But after Mr. Albert and Mr. Higgins; correct?

23 A Correct.

24 Q Okay. Now, you mentioned Mr. O'Keefe and
25 Mr. Read came in at some point as well?

1 A Uh-hmm. Yes.

2 THE COURT: You have to make sure you say yes
3 or no; okay? And the other thing you say, "I
4 assume" or "I guess," don't answer -- if you don't
5 know, you don't know.

6 THE WITNESS: Okay.

7 BY MR. LALLY:

8 Q And, if you know, about what time was it that
9 Mr. O'Keefe and Ms. Read came in?

10 A A little before 11:00 o'clock.

11 MR. LALLY: And, Your Honor, I'm just going to
12 hold off and let the sirens go by.

13 BY MR. LALLY:

14 Q And, with reference to when Mr. O'Keefe and
15 the defendant, Ms. Read came into the Waterfall, where
16 were you in relation to sort of the high-top table that
17 you had described?

18 A I was at the top of the high-top table,
19 closest to the door.

20 Q And, when they came in, where did Mr. O'Keefe
21 and the defendant go?

22 A John walked in and said hello and kept on
23 walking, I think, to the bar, and Karen came in and
24 stopped at the table to talk for a minute.

25 Q And during the time that she stopped at the

1 table to talk for a minute, what, if anything, did she
2 do?

3 A She opened her jacket and had a glass and
4 pulled the glass out and started drinking a drink.

5 Q And, as far as the drink in the glass, what,
6 if anything, did you observe as far color or anything
7 like that?

8 A Clear.

9 Q And the glass that she had, could you see --
10 so the clear liquid inside it, how much of the glass
11 was full of that?

12 A I don't recall.

13 Q And she placed it on the table; is that
14 correct?

15 A Uh-hmm. Yes.

16 Q And what was your reaction to that?

17 A I think I laughed and said, made a comment
18 like you're crazy or something just because she walked
19 in with a glass.

20 Q Now, did you know where Mr. O'Keefe and
21 Ms. Read had been coming from prior to them getting to
22 the Waterfall?

23 A Yes.

24 Q And where were they coming from?

25 A C.F. McCarthy's?

1 Q And you're familiar with that establishment or
2 club?

3 A Yes.

4 Q And where is that in relationship to the
5 Waterfall?

6 A It's maybe 200 steps, right next to my
7 husband's restaurant.

8 Q So on the same side of Washington Street?

9 A Opposite side. Opposite side.

10 Q I'm sorry. On the same side of Washington
11 Street as your husband's restaurant?

12 A Yes.

13 Q Okay. And then the same vicinity from D&E to
14 Waterfall, C.F. McCarthy is to Waterfall?

15 A Yes. Yes.

16 Q Now, over the course of the evening did you
17 occasion to see Mr. O'Keefe, if he was at a bar, he had
18 something to drink; is that correct?

19 A Can you repeat that?

20 Q Sure. Over the course of the evening did you
21 occasion to observe what, if anything, Mr. O'Keefe was
22 drinking?

23 A No, I don't believe. I left very shortly
24 after they got there.

25 Q And, so, you left fairly shortly after they

1 arrived?

2 A Yes.

3 Q Okay. And, if you know, about how much time
4 are we talking about?

5 A Maybe 10-15 minutes.

6 Q And why is it that you left?

7 A I had a terrible migraine.

8 Q From the band being so close to you?

9 A Yes.

10 Q And when you left where did you go?

11 A Home.

12 Q And, when you got home, as far as your
13 children on that evening, who was home, who was out, if
14 you know?

15 A My youngest son was home and my oldest son
16 didn't live at home. He lived in California at the
17 time. And my middle son was not home.

18 Q So your oldest son, Christopher, he was in the
19 Navy at that point?

20 A He was in the Navy and he was stationed in
21 San Diego, yes.

22 Q And, so, your middle son, Colin, he was out.
23 Did you know where he was?

24 A Yes. He was at, I believe, his friend
25 Michael Leonnetti's house.

1 Q And at some point did you learn that Colin had
2 gone from that person's house to somewhere else?

3 A Yes.

4 Q And is this him communicating with you?

5 A Yes.

6 Q And that other place that he went to, do you
7 know where that was?

8 A Yes.

9 Q Where?

10 A My brother and sister-in-law's. Nicole and
11 Brian Albert's house on Fairview Road.

12 Q And was that in relation to your nephew and
13 his birthday?

14 A Yes.

15 Q Now, while you were -- if I could take your
16 back to the Waterfall just for a second. So while you
17 were at the Waterfall, obviously, you see Mr. O'Keefe
18 and Ms. Read come in. Do you recall what Mr. O'Keefe
19 was wearing?

20 A I know he had a hat on. He had jeans on. And
21 he had something with a hood.

22 Q And, from your observations, did you ever see
23 him with like a winter coat or a jacket or anything
24 like that?

25 A I did not.

1 Q And, with regard to the clothing that you
2 observed him wearing, what, if anything, did you
3 observe as far as the condition of that clothing? And
4 by that I mean, was it torn, was it disheveled,
5 anything like that?

6 A No, nothing. Nothing that I remember.

7 Q And, with regard to Mr. O'Keefe, as far as his
8 appearance, what, if anything, did you observe about
9 him as far injuries or anything like that?

10 A Nothing.

11 Q Now, with reference to your group as far as at
12 the Waterfall, how would you describe sort of the
13 overall demeanor or tone of the group and what was
14 going on that evening?

15 A Just normal. I thought it was just normal.
16 Sitting and listening to a band.

17 Q So, at least during the time that you were
18 there, there were no sort or arguments or disagreements
19 or anything like that?

20 A Nope.

21 Q And specifically to Mr. O'Keefe and the
22 defendant, Ms. Read, while you were there during the
23 short time that you were there when they were there,
24 did you observe anything as far as any arguments or
25 disagreements or anything like that?

1 A No, I did not.

2 Q Now, at the time -- so during that time
3 between when they arrived, you mentioned that John went
4 up to the bar; correct?

5 A Uh-hmm. Yes.

6 Q And where did the defendant go?

7 A She talked to me at the top of the table for a
8 few minutes and then I believe she made her way down
9 the table to either Jennifer McCabe or the couple that
10 was at the end of the table to speak with.

11 Q And was it during that period of time that you
12 had enough of the migraine and went home?

13 A Yes. I left very, very shortly after that.

14 Q Now, during the time that you were there and
15 you were speaking with the defendant down sort of your
16 end of the table, what, if anything, was discussed as
17 far as sort of where to go or what to do after the
18 Waterfall?

19 A I do know that -- I do remember, I'm sorry,
20 that Karen had asked if we could go back to D&E, my
21 husband's store, and make pizza, because that's
22 something we frequently do if we're out at the end of
23 the night, if we're hungry.

24 Q And was that something that you had discussed
25 with Ms. Read either on that date or on a prior day?

1 A I believe we discussed just that we went there
2 once and we said next time she'll have to come with us.

3 Q And was that something that was discussed as a
4 possibility or something that was going to happen that
5 night?

6 A I think right away I just wasn't going to do
7 that because I wasn't feeling well and I just -- I
8 think I might have said talk to Chris because I wasn't
9 going to do it.

10 Q Okay. And is that something that she
11 mentioned over the course of that evening once, more
12 than once, or something else?

13 A Just once to me.

14 Q So, when you get home, at some point the rest
15 of your family came home at some point in the evening;
16 correct?

17 A Uh-hmm. Yes.

18 Q Okay. And who came home first, your husband,
19 Christopher, or you son, Colin?

20 A My husband.

21 Q And do you know about time that was?

22 A I want to say about after 12:00. Maybe 12:10,
23 around there.

24 Q So sometime around 12:10?

25 A Sometime around 12:10, yes.

1 Q And what, if anything, do you recall
2 specifically about when your husband, Christopher, came
3 home?

4 A He came upstairs to my room. He was shivering
5 because it was cold out. And he immediately went into
6 the bathroom, got undressed, and got into bed.

7 Q And your son Colin, had you been in
8 communication with him over the evening?

9 A Yes.

10 Q And about how long was it after your husband
11 came home that your son Colin came home?

12 A Ten to fifteen minutes.

13 Q And were you essentially waiting up for him?

14 A Oh, yes. Yup.

15 Q And is that sort of common practice?

16 A Yes. I do not go to bed until my kids are
17 home.

18 Q And is there another common practice as far as
19 when your kids come home? Where do they go when they
20 first come in?

21 A They immediately will always come in the door,
22 maybe grab a water out of the frig, and come upstairs
23 and give me a kiss goodnight and tell me that they're
24 home.

25 Q Now, did that happen on this occasion?

1 A Yes.

2 Q So Colin came into your room at some point?

3 A Yup. He came right upstairs, yes.

4 Q And, when Colin came into your room and came
5 upstairs, did you have occasion to observe him as far
6 as -- you talked to him obviously?

7 A Yes. We talked for a minute. He asked me if
8 I was feeling better. Yeah, we talked for a moment.

9 Q And during that conversation that you had with
10 Colin, same similar to what I had asked you with regard
11 to Mr. O'Keefe, what, if any, injuries or anything did
12 you observe on your son, Colin?

13 A None.

14 Q And fair to say the next day at some point you
15 talked to and had interaction with your son?

16 A Yes.

17 Q Okay. And what, if any, injuries or anything
18 did you observe --

19 A None.

20 Q -- on him at that time?

21 A None.

22 THE COURT: So I know this sort of hard, but
23 wait till Mr. Lally finishes his question before
24 answering. Okay?

25 THE WITNESS: Uh-hmm.

1 THE COURT: Thank you.

2 BY MR. LALLY:

3 Q Now, after your son Colin came home -- and you
4 eventually went to bed; is that right?

5 A Yes.

6 Q And turning your attention to the next
7 morning, the Saturday morning, the 29th, about what
8 time was it that you woke up?

9 A I woke up about 8:00-ish.

10 Q And, with regard to your nephew, Brian, Jr.,
11 whose birthday it was now on the 29th, what, if any,
12 sort of tradition do you have with respect to him and
13 his birthday?

14 A Every year on his birthday I go to Dunkin'
15 Donuts and I get him six donuts and I bring them to the
16 house and I leave them there with a card before he gets
17 up so when he wakes up they're there. I've been doing
18 it for years.

19 Q And is that what your intention was on this
20 morning as well?

21 A Yes.

22 Q And is that what you did on that morning?

23 A Yes.

24 Q Now, when you woke up, probably like most
25 people, at some point did you look at your phone?

1 A Yes.

2 Q And, when you looked at the screen to your
3 phone, what, if anything, did you see?

4 A I had a missed call from my friend,
5 Jen McCabe.

6 Q And was there any sort of notation in regard
7 to the missed call as to what time that missed call had
8 come in?

9 A It was 5:55, maybe.

10 Q So sometime earlier in the morning?

11 A Early morning, yes.

12 Q And beyond the missed call, was there any
13 other sort of stamp or notification on the phone as far
14 a voicemail, text message?

15 A Nope. No, there was not.

16 Q And not from Ms. McCabe; correct?

17 A Correct.

18 Q And not from anybody else?

19 A Correct.

20 Q And at any point in time on that morning over
21 the phone did you speak with Ms. McCabe?

22 A No, I did not.

23 Q And did you call her -- so you didn't call her
24 back or anything like that?

25 A I did not.

1 Q And, so, after you wake up, at some point you
2 go Dunkin' Donuts and get the six donuts?

3 A Yes.

4 Q And where did you go with those?

5 A I drove to 34 Fairview.

6 Q And, when you arrived at 34 Fairview, where
7 did you park in relation to the house?

8 A I pulled into the driveway.

9 Q And, when you came up to the house, when were
10 driving to the house, at this point what was the
11 weather like at this point?

12 A It was coming down. The snow was coming down
13 pretty good.

14 Q And, with reference to the house, what, if
15 anything, did you notice out of the ordinary with
16 regard to the house or the street or anything else?

17 A Jennifer McCabe's car was in the driveway.

18 Q And, as far as any other vehicles on the
19 street or anything like that, what was going on at that
20 point?

21 A I don't recall.

22 Q So nothing you can recall?

23 A No.

24 Q About what time was this that you got there?

25 A 8:30-9:00 o'clock. 8:30.

1 Q And when you get there, you pull in the
2 driveway, what did you do?

3 A I opened my car door. I got out to walk to
4 the car in front of me to leave the donuts and card
5 inside my nephew Brian's car. And Brian Albert came to
6 the door. Brian Albert, Sr. came to the door and he
7 told me, asked me to come in for a second and I said
8 that I didn't need to. And he said -- I said I'm just
9 leaving these, this gift for Brian, Jr. And he said,
10 no, just come in for a second. So I went into the
11 house.

12 Q And, when you walk into 34 Fairview Road on
13 that morning, who, if anyone, else was there?

14 A Nicole Albert, Brian Albert, Brian Higgins,
15 Jennifer McCabe, and Matt McCabe.

16 Q And where were they in relation to the house?

17 A In the kitchen.

18 Q And what, if anything, did they tell you at
19 that time?

20 A When I first walked in, nothing. Everyone was
21 just sitting there. And I was looking around and
22 everyone was visibly upset. And I asked what's going
23 on. And another maybe 30 seconds went by and Jen said,
24 something has happened to John. And I said, John? She
25 said, John O'Keefe. And I said, is he okay?

1 MR. YANNETTI: Objection.

2 THE COURT: No. I'm going to allow it.

3 BY MR. LALLY:

4 Q Go ahead.

5 A I said, is he okay. And she said, we don't
6 know.

7 Q And after hearing that information, how long
8 were you at your brother and sister-in-law's house that
9 morning?

10 A Probably about a half hour, 45 minutes, maybe.

11 Q And where did you go from there?

12 A I went home to wake my husband up to let him
13 know what had happened.

14 Q And at some point after you go home and wake
15 up your husband where did you and your husband go?

16 A We went back to -- I woke up my husband, told
17 him what had happened, and we went back to Fairview.

18 Q And, so, the second time that you had gone
19 back to Fairview, about how long a period of time were
20 you there that time?

21 A I would say probably a half hour. Not long.

22 Q And then after that half hour or so, where did
23 you go after that?

24 A Back home to my house.

25 Q Now, during either of those occasions when you

1 were at 34 Fairview Road on the morning of the 29th,
2 you had occasion to talk and observe Brian Albert, Sr.;
3 correct?

4 A Yes.

5 Q And similar to the questions that I asked you
6 with regard to Mr. O'Keefe and your son Colin, what, if
7 any, injuries or anything out of place did you note
8 with respect to Brian Albert, Sr.?

9 A Nothing that I saw.

10 Q And same question with respect to Mr. Higgins,
11 as far as -- you made observations and spoke at least
12 in the same room as him on that morning?

13 A Yes.

14 Q And what, if anything, did you observe as far
15 as injuries or anything else on Mr. Higgins?

16 A Nothing.

17 Q Now, when you woke up your husband that next
18 morning, your other two sons, being Colin and [REDACTED],
19 they were at home still?

20 A Yes. They were at home still asleep.

21 Q And, with regard to when you went to Fairview,
22 came back with your husband, went back to Fairview and
23 then came back again, were they still asleep?

24 A I don't remember.

25 Q Do you recall -- well, let me put it this way.

1 As far as your sons, did they, either of your sons,
2 come back with you to Fairview Road that day?

3 A No, they did not.

4 Q And do you recall whether or not either Colin
5 or [REDACTED] was awake when you left the second time to go
6 to Fairview?

7 A I don't.

8 Q Now, at some point a few days after this did
9 you have occasion to meet with a couple of troopers
10 from the state police?

11 A Yes, I did. They came to my home.

12 Q When you say "they," how many of them came to
13 you?

14 A There were two.

15 Q And you spoke to them that day in reference to
16 what you had observed at the Waterfall and everything
17 you just testified to?

18 A Yes, I did.

19 MR. LALLY: May I have one moment, Your Honor?

20 THE COURT: Yes.

21 BY MR. LALLY:

22 Q Just one last question. When you --
23 Ms. Albert, when you came over to Fairview Road that
24 first time with the donuts, as far as the inside of the
25 house, what, if anything, did you observe as far as the

1 condition of the home or anything about the home that
2 seemed abnormal or out of place or off, you know, from
3 the evening before when you were there?

4 A Nothing.

5 MR. LALLY: I have nothing further for this
6 witness, Your Honor.

7 THE COURT: Okay. Mr. Yannetti.

8 MR. YANNETTI: Thank you.

9 CROSS-EXAMINATION

10 BY MR. YANNETTI:

11 Q Good afternoon, Ms. Albert.

12 A Good afternoon.

13 Q You and I have never met; correct?

14 A Correct.

15 Q I just wanted to pick up on a question and an
16 answer that Mr. Lally asked you and that you responded
17 to. He had just asked you whether or not a few days
18 later you spoke with a couple of state troopers. Do
19 you recall that question?

20 A Yes.

21 Q And your answer was yes?

22 A Yes.

23 Q You would agree with me that it was more than
24 just a few days later; correct?

25 A I --

1 Q It was February 10th of 2022 that two state
2 troopers came to speak with you and your husband,
3 Chris; correct?

4 A Correct.

5 Q And, so, we're talking about 13 days later,
6 almost two weeks later; correct?

7 A If that was the date, yes, correct.

8 Q Prior to February 10th, no investigator from
9 this case bothered to talk to you or your husband;
10 correct?

11 A Correct.

12 Q Now, in terms of the two investigators who did
13 come, you know -- you knew one of them quite well; did
14 you not?

15 A I knew them. I wouldn't say quite well, but I
16 knew them.

17 Q Okay. And when you say you knew them --

18 A Him. I'm sorry. Him.

19 Q Okay. And who was it that you knew?

20 A Michael Proctor.

21 Q Michael Proctor was the brother of one of your
22 close friends; correct?

23 A Correct.

24 Q You're close friends with Courtney Proctor;
25 correct?

1 A I am.

2 Q By the way, your maiden name is Daniels;
3 correct?

4 A Yes, it is.

5 Q And you have a sister, Jill Daniels; correct?

6 A Yes, I do.

7 Q And you would agree that Jill Daniels is also
8 lifelong best friends with Courtney Proctor; correct?

9 A Yes, she is.

10 Q And, in terms of your relationship with
11 Courtney Proctor, you socialize with her; do you not?

12 MR. LALLY: Objection.

13 THE COURT: Do you?

14 A Occasionally, yes.

15 BY MR. YANNETTI:

16 Q Go out for drinks with her; correct?

17 A Yes.

18 Q You've attended parties with her; correct?

19 A Yes.

20 Q You've also provided child care for her
21 children; correct?

22 A Yes.

23 MR. LALLY: Objection. Move to strike.

24 THE COURT: Okay. I'll see you at sidebar on
25 this, Mr. Yannetti.

1 (Whereupon, there was a sidebar conference as
2 follows:)

3 THE COURT: What is the objection?

4 MR. LALLY: The same objection as with the
5 last witness, Your Honor.

6 THE COURT: All right. She has a little more
7 of a connection than her husband. What do you
8 intend to do with this?

9 MR. YANNETTI: I mean, this is -- it's not
10 only relevant and material. In my view, it's
11 absolutely crucial evidence. I'm trying to attack
12 the integrity of this investigation, the things
13 that the police did not do to prevent the conflict
14 of interest. It goes directly to our *Bowden*. This
15 is --

16 THE COURT: So what is it that the police
17 didn't do here? I agree with you. You can go to
18 that; but, when I gave you the opportunity the last
19 time, you really didn't go back to that. So what
20 do you want to do about what they didn't do?

21 MR. YANNETTI: Well, I want to explore just
22 how tied in this family is with the Proctors and
23 then point out that not only did they not point it
24 out to any investigator but Proctor never pointed
25 it out either. They kept this relationship a

1 secret when there was a clear conflict of interest.
2 The only way I can make that argument is if I lay a
3 foundation through this witness as to the extent of
4 their relationship.

5 THE COURT: So what else do you intend to ask?
6 I'm not sure you can make a foundation through this
7 witness, the sister of an investigator.

8 MR. YANNETTI: You know, again, they haven't
9 called Proctor yet. He will be called either by
10 the Commonwealth or the defense. I don't want to
11 be in a situation where Proctor can just disavow
12 everything.

13 THE COURT: Well, if he does, then you can
14 call the people back.

15 MR. YANNETTI: If I could have just one
16 moment.

17 Yes.

18 THE COURT: Just so it's clear, if Proctor
19 does disavow, totally disavow, you can call the
20 people back, assuming that it's not too collateral
21 and you can build a foundation. We still have a
22 long way to go in testimony.

23 MR. YANNETTI: Right. I understand. And I
24 hope that becomes mute because the Court is going
25 to allow it now. You had asked me --

1 THE COURT: That's pretty bold, Mr. Yannetti.

2 MR. YANNETTI: You had asked me, you know,
3 what do I intend to get in. This particular
4 examination is leading up to the fact that we have
5 evidence that this witness is calling Courtney
6 Proctor, who is --

7 THE COURT: And I get all of that.

8 MR. YANNETTI: Who is calling Michael Proctor,
9 who is calling Courtney Proctor back, who is
10 calling --

11 THE COURT: I know where you are going up when
12 you brought up the child care.

13 MR. YANNETTI: Not just child care.

14 THE COURT: All of that.

15 MR. YANNETTI: Not just that.

16 THE COURT: What else do you have?

17 MR. YANNETTI: It's specifically on relevant
18 days to my client's case on February 1st, when
19 she's arrested -- I'm sorry -- February 1st, before
20 she is arrested, when she's arrested; February 2nd,
21 when she's arraigned. This witness is acting
22 as a go-between between the lead investigator,
23 Michael Proctor. I'm sorry. Courtney Proctor is
24 operating as a go-between between Michael Proctor
25 and this witness. I need to be able to get into

1 that. We have the records.

2 THE COURT: What was the question specifically
3 that you just asked? I thought it was too far
4 afield.

5 MR. YANNETTI: I asked about the fact that the
6 relationship is so close that she provides child
7 care for Courtney Proctor's children. From there,
8 you know, we get into, you know, the relationship
9 between Michael Proctor, Courtney Proctor,
10 Elizabeth Proctor and how long they go back. I
11 believe I should be able to get into evidence the
12 fact that she was at, you know, Courtney Proctor's
13 wedding. In fact, the Proctors' son was in that
14 wedding.

15 I don't understand why that is all not
16 relevant and material. I am trying to establish
17 the relationship between them which then gives
18 context to --

19 THE COURT: You have to keep it neater.
20 You're going too far afield with it. So we will do
21 it on a question and answer.

22 THE JUROR: Your Honor, [REDACTED] is just
23 asking if they would keep their voices up,
24 including the witness.

25 THE COURT: Thank you very much. So we will

1 do that.

2 (Whereupon, the sidebar conference concluded.)

3 BY MR. YANNETTI:

4 Q So, Ms. Albert, you provided child care for
5 Courtney Proctor's children?

6 MR. LALLY: Objection.

7 THE COURT: We need a time frame,

8 Mr. Yannetti.

9 BY MR. YANNETTI:

10 Q Have you ever provided child care for
11 Courtney Proctor's children?

12 MR. LALLY: Objection.

13 THE COURT: We need a time frame.

14 BY MR. YANNETTI:

15 Q Before January of 2022 did you provide child
16 care for Courtney Proctor's children?

17 A Yes.

18 Q When?

19 A 2019. 2019.

20 Q Just that one year?

21 A Yeah. It was pre-COVID. And then when COVID
22 happened and everything shut down I wasn't helping her
23 any longer.

24 Q Okay.

25 A And then occasionally after I would help just

1 on an as-needed basis --

2 Q Okay.

3 A -- after COVID.

4 Q And during that year of 2019 how often did you
5 watch her children?

6 A Two days a week.

7 Q And she had a boy and a girl?

8 A Correct.

9 Q What were their names?

10 A [REDACTED]

11 Q And [REDACTED] and [REDACTED] were Trooper Proctor's
12 niece and nephew; correct?

13 A Yes.

14 Q The Proctor family entrusted you with the care
15 of their children; correct?

16 MR. LALLY: Objection.

17 THE COURT: Sustained as asked.

18 BY MR. YANNETTI:

19 Q You know that Michael Proctor is a state
20 trooper; correct?

21 A Yes.

22 Q You knew that he also was from Canton?

23 A Yes.

24 Q You knew his wife, Elizabeth Proctor?

25 A Yes.

1 Q And you were also aware that Courtney Proctor
2 had recommended you to also watch Michael Proctor and
3 Elizabeth Proctor's children; correct?

4 MR. LALLY: Objection. Move to strike.

5 THE COURT: That objection is sustained.

6 BY MR. YANNETTI:

7 Q But you go back a long way with Courtney
8 Proctor; correct?

9 A Correct.

10 Q In fact, you were certainly at her wedding;
11 correct?

12 MR. LALLY: Objection.

13 THE COURT: Sustained.

14 BY MR. YANNETTI:

15 Q Your son was a ring bearer at that wedding?

16 MR. LALLY: Objection.

17 THE COURT: So I'll sustain that through this
18 witness.

19 BY MR. YANNETTI:

20 Q You've spent time at Michael Proctor's
21 childhood home; have you not?

22 A Yes.

23 Q You've been to the pool at the Proctor's
24 house; correct?

25 A Yes.

1 MR. YANNETTI: May we approach?

2 THE COURT: Yes.

3 (Whereupon, there was a sidebar conference as
4 follows:)

5 MR. YANNETTI: Again, in the context of
6 establishing the relationship, that's the Proctors'
7 home. That is Michael Proctor's father, Michael
8 Proctor's mother, Courtney Proctor, Christopher
9 Albert, Colin Albert and Courtney Proctor's
10 husband.

11 THE COURT: What does the Commonwealth say
12 about this?

13 MR. LALLY: The Commonwealth would object for
14 a number of reasons. Number one, I don't see this
15 witness in there. Two, there is no date or time.
16 Number three --

17 THE COURT: Okay. Too many people are talking
18 at once. So on authentication grounds, the fact
19 that the witness isn't here. What else?

20 MR. LALLY: Hearsay as far as anything that's
21 posted on the bottom. I just don't see how it's
22 material.

23 MR. YANNETTI: It's authenticated because
24 she's going to say that is a fair and accurate
25 representation of the house and she's going to say

1 that's a fair and accurate representation of my
2 husband; my best friend, Courtney Proctor; her
3 husband; that's my son and those are the Proctors.
4 That's the authentication right there.

5 THE COURT: Okay. So we are going to mark
6 this for identification.

7 (Whereupon, photograph of Proctor pool was entered
8 and marked as Exhibit "V" for Identification.)

9 THE COURT REPORTER: "V" for Identification.

10 THE COURT: Okay. The objection is sustained.
11 This is not coming in. It will be kept for
12 identification. That's my ruling, Mr. Yannetti.
13 We've got about 10 minutes. You won't finish with
14 her, right?

15 MR. YANNETTI: No.

16 THE COURT: Okay. So let's go from there for
17 about 10 minutes.

18 (Whereupon, the sidebar conference concluded.)

19 BY MR. YANNETTI:

20 Q How many times have you been to the Proctor's
21 pool?

22 A I'd say maybe a dozen.

23 Q And you've certainly taken your children there
24 as well?

25 A Yes.

1 Q Colin has been to the Proctor's pool?

2 A Yes.

3 Q And you've seen Michael Proctor's mother and
4 father at that pool; correct?

5 A Yes.

6 Q You've seen Courtney Proctor and her husband
7 at that pool; correct?

8 A Yes.

9 Q You are very close with Courtney Proctor;
10 correct?

11 A I don't -- how would you define "very"?

12 Q Well, I guess I'd ask you to define "very
13 close." Do you deny that are very close with
14 Courtney Proctor?

15 A No.

16 MR. LALLY: Objection, Your Honor.

17 THE COURT: No. Go ahead. Next question.

18 You got your answer.

19 MR. YANNETTI: I didn't hear the answer.

20 THE COURT: Go ahead. Repeat that.

21 BY MR. LALLY:

22 Q Do you deny that are very close with
23 Courtney Proctor?

24 A No.

25 Q Okay. You talk regularly; correct?

1 A Yes.

2 Q You text each other; correct?

3 A Yes.

4 Q You also talk by phone?

5 A Very rarely.

6 Q Is it fair to -- did you say very rarely you
7 talk to Courtney Proctor by phone?

8 A Usually it's text.

9 Q But do you stand by that testimony that you
10 talk to Courtney Proctor very rarely by phone --

11 THE COURT: Do you have a time frame? Do you
12 mean now or do you mean then?

13 BY MR. YANNETTI:

14 Q Let me ask you this. Between February 1st of
15 2022 and September 6th of 2022 did you only speak
16 rarely with Courtney Proctor?

17 A I don't recall.

18 Q Were you using Courtney Proctor as an
19 intermediary to communicate with Michael Proctor about
20 this case?

21 MR. LALLY: Objection.

22 THE COURT: I'll allow it.

23 A No, I was not.

24 BY MR. YANNETTI:

25 Q Are you aware that between February 1st of

1 2022 and September 6th of 2022 you and Courtney Proctor
2 spoke by phone 67 times?

3 MR. LALLY: Objection.

4 THE COURT: Are you aware of that?

5 A No, I don't know the exact count.

6 BY MR. YANNETTI:

7 Q Do you deny that you spoke 67 times?

8 A I don't deny it, but I don't -- I don't recall
9 the exact amount of times.

10 Q Okay. So you don't deny that you spoke 67
11 times. Do you still want to maintain your testimony
12 that you only talked very rarely with Courtney Proctor
13 during that time period?

14 A I just don't remember the exact amount of
15 times.

16 Q Well, you know that my client, Karen Read, was
17 arrested in connection with this case on February 1st
18 of 2022; do you not?

19 A I do.

20 Q You spoke to Courtney Proctor that date for 12
21 minutes by phone; correct?

22 A I don't recall exactly. I don't remember
23 exactly.

24 MR. YANNETTI: May I approach?

25 THE COURT: Sure.

1 BY MR. YANNETTI:

2 Q Well, before I approach, your memory is
3 exhausted as to whether you spoke to Courtney Proctor
4 that day and, if so, how long the two of you spoke?

5 A Yes.

6 MR. YANNETTI: If I may?

7 THE COURT: Sure.

8 BY MR. YANNETTI:

9 Q I'm showing you a document with a number of --

10 THE COURT: Just show it to her.

11 MR. YANNETTI: Right. No. I just want to
12 point out which one that I'm pointing out. I was
13 just going to say a number of lines.

14 BY MR. YANNETTI:

15 Q The third line down, if you would take a look
16 at that specific date and time and see if that
17 refreshes your memory about whether and how long you
18 spoke to Courtney Proctor on February 1st of 2022.

19 THE COURT: Can you see that or do you need
20 glasses?

21 THE WITNESS: No. I can see it.

22 BY MR. YANNETTI:

23 Q I do have a pair of readers that I need as
24 well, if you need to borrow them.

25 A Yes. If I could?

1 Q Of course.

2 A Thank you.

3 Q And I just got these and it's like --

4 THE COURT: Mr. Yannetti, just bring the
5 glasses up.

6 MR. YANNETTI: It took me while to figure them
7 out, but anyway --

8 BY MR. YANNETTI:

9 Q It's the third line down.

10 A Third line down.

11 Yes, I see it. I just -- I don't -- I don't
12 recall this. It's a long time ago. Thank you.

13 Q And you say that having seen this record does
14 not refresh your memory that you spoke to Courtney
15 Proctor for --

16 THE COURT: It does not refresh her memory.

17 That's where you have to leave it.

18 MR. YANNETTI: Okay.

19 BY MR. YANNETTI:

20 Q Did Courtney Proctor tell you the day of my
21 client's arrest on February 1st that she had been
22 discussing the case with her brother that day?

23 MR. LALLY: Objection.

24 THE COURT: Sustained.

25 BY MR. YANNETTI:

1 Q Did you speak to Courtney Proctor that day in
2 any fashion?

3 A What day exactly?

4 Q The day of my client's arrest, on February 1st
5 of 2022.

6 A That was on the sheet you just gave me?

7 Q It was.

8 A Well, I did obviously if it was on that sheet.

9 Q Okay. And when you talked to her did she tell
10 you that she had discussed the case with her brother?

11 MR. LALLY: Objection.

12 THE COURT: Sustained.

13 BY MR. YANNETTI:

14 Q Were you notified that Karen was going to be
15 arrested?

16 MR. LALLY: Objection.

17 THE COURT: Sustained.

18 BY MR. YANNETTI:

19 Q What did you discuss?

20 A I don't recall.

21 Q The next day, February 2nd of 2022, was the
22 day that my client was arraigned back in Stoughton
23 District Court. Do you recall that?

24 A Yes, I do.

25 Q You spoke to Courtney Proctor three times that

1 day before my client's publicly-televised arraignment
2 at 9:00 a.m.; did you not?

3 A Again, I don't remember.

4 Q After the arraignment you spoke to her again
5 for 27 minutes, beginning at 10:58 a.m.; did you not?

6 A I don't recall.

7 Q Okay. So your testimony is -- well, strike
8 that.

9 My client's arrest was pretty big news in
10 Massachusetts; wasn't it?

11 MR. LALLY: Objection.

12 THE COURT: Sustained.

13 BY MR. YANNETTI:

14 Q You were aware that my client had been
15 arrested; correct?

16 A Yes. I had seen it on the news.

17 Q You were aware that she was being arraigned
18 the very next day; were you not?

19 A Yes.

20 Q This case involved your family; did it not?

21 A How do you mean it?

22 Q Well, you knew that John O'Keefe was found
23 dead on your brother-in-law Brian Albert's lawn;
24 correct?

25 A Correct.

1 Q So, necessarily, your family was involved in
2 this case; correct?

3 A Somewhat, yes.

4 Q And you knew that ultimately you'd probably be
5 talked to by investigators from this case; correct?

6 A I assumed so, yes.

7 Q Right. It didn't happen for 13 days, but
8 ultimately they did come; correct?

9 A Yes.

10 Q So this case had to have been pretty big news
11 within the Albert family; was it not?

12 A Yes.

13 Q You were discussing it with your husband;
14 correct?

15 A Yes.

16 Q You were discussing it with your other
17 relatives; correct?

18 A Yes.

19 Q You were discussing it with your friends;
20 correct?

21 A I don't know about my friends, but --

22 Q So is it your testimony that with all of this
23 going on you confined your discussions about this just
24 to your specific family members?

25 A Not necessarily.

1 Q No. I mean, clearly, you would have talked to
2 Courtney Proctor about this; correct?

3 MR. LALLY: Objection.

4 THE COURT: Sustained.

5 So, folks, why don't we end here.

6 Ms. Albert, you'll have to be back tomorrow.

7 And, jurors, the three cautions. Please do
8 not discuss this case with anyone. Don't do any
9 independent research or investigation into the
10 case. If you happen to see, hear or read anything
11 about the case, please disregard it and let us
12 know.

13 All right. I'll see counsel at sidebar while
14 the jurors leave. Thank you very much. I'll see
15 you in the morning.

16 (Whereupon, the jury was escorted from the
17 courtroom at 12:30 p.m.)

18 (Whereupon, there was a sidebar conference as
19 follows:)

20 THE COURT: So the issue that you wanted to
21 talk to me about, how long will that take us?

22 MR. YANNETTI: Five or 10 minutes, probably.

23 THE COURT: All right. So we were going to
24 switch to FTR. So you can back up and do whatever
25 you need to do. Okay? So we will be done with the

1 court reporter's version. What you're going to
2 talk to me about is like a security issue?

3 MR. YANNETTI: Correct.

4 THE COURT: So it's not the record of this
5 case. We will switch. We are done.

6 (Whereupon, the remainder of the session was
7 recorded on FTR only.)
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C E R T I F I C A T E

I, Paula M. Mills, retired certified court reporter, do hereby certify that the foregoing pages, page 14-3 to 14-168, is a true and accurate transcription of the voice recording in the aforementioned matter to the best of my skill and ability.

This, the 10th day of February, 2025.

\s\ Paula M. Mills

Paula M. Mills

Retired Certified Court Reporter
and Court Transcriptionist